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Vol. I

TRANSCRIPT OF RECORD

(Pages 1 to 480)

Supreme Court of the United States

OCTOBER TERM, 1951

No. 43

PETER HARISIADES, PETITIONER,

vs.

EDWARD J. SHAUGHNESSY, DISTRICT DIRECTOR OF IMMIGRATION AND NATURALIZATION OF THE PORT OF NEW YORK

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

PETITION FOR CERTIORARI FILED MAY 3, 1951.

CERTIORARI GRANTED OCTOBER 8, 1951.

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United States Court of Appeals

FOR THE SECOND CIRCUIT

PETER HARISIADES,

Relator-Appellant,

against

EDWARD J. SHAUGHNESSY, District Director of Immigration and Naturalization at the Port of New York,

Respondent-Appellee.

Statement Under Rule 15(B)

A writ of habeas corpus was sued out on July 1, 1949 by the relator Peter Harisiades against Edward J. Shaughnessy, District Director of Immigration and Naturalization at the Port of New York. Respondent filed a return to the writ and the relator filed a traverse to the return on July 19, 1949. The writ came on to be heard on the said July 19, 1949 before Honorable Vincent L. Leibell. In accordance with the opinion of Judge Leibell filed February 9, 1950, the writ of habeas corpus was dismissed by an order filed February 20, 1950. The same day notice of appeal from this order was filed.

Thereafter and on March 1, 1950 an order was secured to show cause why the petition for the writ of habeas corpus should not be amended nunc pro tunc and the writ of habeas corpus reargued so as to permit the Court to pass upon the applicability of the Administrative Procedure Act to the deportation proceedings sought to be reviewed upon the said writ of habeas corpus. The show cause order was referred to Honorable Vincent L. Leibell and was heard by him on March 7, 1950. On that day respondent filed an affidavit in opposition challenging the jurisdiction of the District Court to hear and determine the show cause order of March 1, 1950 after notice of appeal from the order dismissing the writ had been filed.

Thereafter and on March 27, 1950 a further show cause order was obtained from Honorable Vincent L. Leibell returnable before him the following day, asking that the

notice of appeal filed February 20, 1950 be withdrawn in order that the District Court have jurisdiction to determine the show cause order issued March 1, 1950. Respondent filed an affidavit in opposition March 30, 1950, a supplemental affidavit and a second supplemental affidavit with exhibits on March 31, 1950.

Thereafter on April 4, 1950 Judge Leibell filed an opinion denying the motion for leave to amend the petition for writ of habeas corpus "on the merits," and "in view of that determination" he also denied the motion to withdraw the notice of appeal. An order to the foregoing effect was made and entered April 11, 1950, and appeal therefrom was taken on the same day.

The two foregoing appeals were consolidated by order made and entered in this Court on April 26, 1950.

The relator-appellant was released on bail in an amount of $5,000 pending the disposition of the writ of habeas corpus on July 23, 1949, pursuant to an order to that effect made and entered July 22, 1949. His enlargement on bail was continued pending the hearing and determination of the appeal from the order dismissing the writ of habeas corpus by an order made and entered on February 20, 1950.

There has been no change of parties or of attorneys.

Writ of Habeas Corpus

THE PRESIDENT OF THE UNITED STATES OF AMERICA: to the Attorney General of the United States; to the District Director of Immigration and Naturalization at the Port of New York, and his deputies and any and all persons concerned in and having the custody of PETER HARISIADES,

Greeting:

We command you that you have the body of PETER HARISIADES or by whatever name he shall be called before the United States District Court, at Room 506 of the United States Court House, in the Borough of Manhattan, City of New York, Southern District of New York, FORTHWITH, to do and receive what shall then and there be considered concerning this purpose, and we further command you that you certify fully and at large to the said Court, at the said time and place, the cause of the imprisonment and detention of the said Peter Harisiades, or by whatever name he shall be called or held, and have you then and there at the time and place aforesaid this writ and your return thereon.

WITNESS, Honorable John C. Knox, Judge of the United States District Court of the Southern District of New York, the 1st day of July 1949.

WILLIAM V. CONNELL,
Clerk.

The above writ is hereby allowed.

Dated: New York, July 1st 1949

(SEAL)

SYLVESTER J. RYAN,
U. S. D. J.

Petition for Writ of Habeas Corpus

UNITED STATES DISTRICT COURT,

SOUTHERN DISTRICT OF NEW YORK.

PETER HARISIADES,

Petitioner,

against

EDWARD J. SHAUGHNESSY, Acting District Director of Immigration and Naturalization at the Port of New York,

Respondent.

To the Honorable the Judges of the United States District Court for the Southern District of New York:

The petition of Peter Harisiades by Carol King, one of his attorneys, shows:

1. The petitioner is now actually in custody at Ellis Island awaiting deportation to Greece as a result of his arrest ordered by the respondent and effected by the agents of the respondent under the Act of October 16, 1918, as amended.

2. On information and belief the sole claim and sole authority by virtue of which the respondent so restrains and detains the petitioner is a warrant of deportation served upon said petitioner on or about the 20th day of May 1949.

3. The Immigration and Naturalization Service found that petitioner had been a member of the Communist Party from in or about 1925 until October 1939.

4. Because of said membership the petitioner was charged with, and found to be residing in the United States in violation of the Immigration Act of October 16, 1918, as amended by the Act of June 28, 1940, in that he was found to have been after entry a member of the following classes set forth in Section 1 of said Act: (1) An alien who is a member of an organization that advocates the overthrow by force or violence of the Government of the United States, and (2) an alien who was a member of an organization that distributes printed matter containing such advocacy.

5. The Board of Immigration Appeals in its opinion in petitioner's case stated that "the evidence of record does not establish that the respondent personally believed in or advocated the overthrow of the Government of the United States by force or violence."

6. The petitioner came to the United States legally on March 7, 1916, when he was about 13 years of age, and has never left the country since that date. The record of his entry at the Port of New York on the S.S. "Vasilefs Constantinos" was introduced as an exhibit in his case. On or about September 15, 1937 he married Sarah Topal in the City of New York and has lived with his wife ever since that time. She is a citizen of the United States, having derived such citizenship by virtue of the naturalization of her father.

7. There was issue of such marriage a daughter, Irene Harrison, now ten years of age, and a son, George Harrison, now four years of age, both native born citizens of the United States.

8. On the 28th day of December 1944 petitioner filed a petition for naturalization in the United States District Court for the Southern District of New York, and that petition is still pending undetermined.

9. Up to the time of his arrest petitioner lived with his wife and children at 392 East 4th Street, Apartment B4, Brooklyn, New York, and the entire family depends upon his wages for its support and maintenance.

10. The petitioner has not been convicted of the commission of any act of violence, nor has he been incarcerated as a result of any criminal conviction whatsoever.

11. Despite the 38 years the petitioner has resided in the United States and despite the extended hearings conducted in his case, the only evidence relied upon by the Immigration and Naturalization Service to sustain the charges lodged against the petitioner was the fact that he was a member of the Workers (Communist) Party and its successor, the Communist Party of the U. S. A., from the year 1925 until in or about the year 1939, which was readily admitted by the petitioner.

12. The record of the deportation hearing fails to disclose substantial evidence to establish that the Communist Party of the U. S. A. in fact believed in or advocated the overthrow of the Government of the United States by force and violence during petitioner's membership or distributed literature containing such advocacy.

13. The warrant of arrest, the entire proceeding to deport plaintiff, and other activities of the Government to achieve that purpose, the proposed Findings of Fact, proposed Conclusions of Law, and proposed Order of the Presiding Inspector, the Decision of the Commissioner of Immigration and Naturalization, and the Order of the Board of Immigration Appeals, the warrant of deportation, and the detention, restraint and imprisonment of petitioner are unlawful and illegal, for the reason that petitioner has been deprived of his right to freedom of speech, freedom of press, the right peaceably to assemble and to petition the Government for a redress of grievances, in violation of the First Amendment to the Constitution of the United States; and has been deprived of liberty and property without due process of law in violation of the Fifth Amendment to the Constitution of the United States, in that:

A. The said statute as written deprives petitioner of said rights.

B. The said statute, as construed and applied to petitioner, would deport petitioner for membership in or affiliation with a proscribed organization which has not been shown to believe in or advocate the immediate forcible overthrow of the Government of the United States. The documents and evidence do not establish that the Communist Party of the U. S. A. advocated the overthrow of the Government of the United States in the foreseeable future and the said party by whatever name it is called did not present any clear and present danger to the safety and stability of the United States. In truth and in fact the petitioner ceased membership in the said organization in 1939 and ten years have elapsed since that date and no overthrow of this Government by the said organization or any other person or organization has been effected or attempted.

C. Petitioner has been ordered deported for membership in an organization that distributes, or has in its possession

for distribution, proscribed literature, without any showing that petitioner was in any way connected with such distribution or that petitioner had knowledge that such literature, if such be the fact, advocated the overthrow of this Government by force and violence.

D. The statute requires relinquishment of the right to belong to organizations proscribed by the statute, thereby imposing conditions on the right of an alien to remain in the United States which are in violation of said constitutional rights.

E. The petitioner has been ordered deported notwithstanding the following finding by the Board of Immigration Appeals: "We find that the evidence of record does not establish that the respondent personally believed in or advocated the overthrow of the Government of the United States by force or violence."

F. The statute as construed and applied against the petitioner does not provide a sufficient rule or standard of conduct.

14. The said warrant for the petitioner's deportation was issued and served upon him and he was taken into custody in violation of paragraph three of Section 9 of Article I of the Federal Constitution in that the amendment of June 28, 1940 of the Act of October 16, 1918, as amended, is an ex post facto law as written and more particularly as construed and applied to the petitioner in that the petitioner was no longer a member of the Communist Party of the U. S. A. at the time of the enactment of said amendment of June 28, 1940, under and by virtue of which amendment past membership in organizations proscribed by the said Act of October 16, 1918, as amended, was sought to be constituted an independent ground for deportation.

15. The said arrest, detention, restraint and imprisonment of petitioner denies and deprives petitioner of due process of law, in violation of the Fifth Amendment to the Constitution of the United States, in that:

A. The 1940 amendment to the Deportation Law pursuant to which the charges herein made were sustained (Act of October 16, 1918, as amended by Act of June 5, 1920 and Act of June 28, 1940, 8 U. S. C. 137), as applied

to petitioner, who ceased to be a member of the Communist Party of the U. S. A. in 1939 is in violation of the Fifth Amendment in that it is a deprivation of fundamental rights based upon conduct antedating the penalizing statute.

B. The proceeding should not have been reopened after the hearing of June 30, 1947, as all the evidence thereafter introduced was or could have been in the possession of the Government prior thereto and no good cause existed for reopening the said hearing other than to introduce cumulative evidence and such cause could justify reopening without end. The Government cannot appropriately reopen a hearing merely to introduce cumulative evidence to harass a respondent in deportation proceedings.

16. The warrant for the petitioner's deportation was issued and served upon him and he was taken into custody in violation of the Federal Constitution in that said warrant orders his deportation to Greece, a country to which, if he is sent, he will be sent to his death. This Court should take judicial notice of the growing number of executions of persons for political beliefs by the present Government of Greece. The deportation to Greece of a person for membership, past or present, in the Communist Party of the U. S. A. is cruel and unusual punishment in violation of the Eighth Amendment to the Federal Constitution.

17. The respondent herein, in executing the warrant for petitioner's deportation and in taking him into custody is acting without authority in law and in violation of the Federal Constitution.

18. The petitioner therefore avers that he is now in custody at Ellis Island awaiting deportation to Greece contrary to the provisions of the laws of the United States in such cases made and provided, and to the guarantees of the Federal Constitution, and upon a record of hearing which fails to disclose any substantial basis by which authority is vested in the respondent to execute such a final warrant and order of deportation, and that the petitioner is in imminent danger of the loss of the right to remain in the United States with his citizen wife and two native born children, which right he acquired as a child in 1916 by virtue of his legal entry under the provisions of the Immigration laws of the United States.

19. The petitioner filed a petition for naturalization in this Court on the 28th day of December 1944, which said petition is still pending in this Court.

20. Hitherto an application for review under the Administrative Procedure Act was submitted. The decision of Honorable WILLIAM BONDY was announced in the Law Journal this morning. In his opinion Judge BONDY suggests that the remedy of writ of habeas corpus is speedy and for that reason should be resorted to in this case. Accordingly, an application is made for a forthwith return to the writ, as the man has been in custody since his arrest on May 20.

21. On information and belief, the cause or pretense of the restraint and imprisonment of the petitioner is as aforesaid, and petitioner is not imprisoned or detained by virtue of any process of mandate issued by any court of the United States or any judge thereof, nor is he committed or detained by virtue of a final judgment or decree of any competent tribunal made in a special proceeding instituted for any cause or by virtue of execution or process issued upon a judgment, decree or final order other than as aforesaid, and the attempt on the part of the Attorney General to detain him is unfair.

WHEREFORE, your petitioner prays that this Court may proceed in a summary way to determine the facts in this case in that regard and the legality of the imprisonment, restraint and detention of the petitioner, and thereupon to dispose of the petitioner as law and justice may require, and for such other and further relief as to the Court may seem just and proper.

Dated: New York, July 1, 1949.

PETER HARISIADES
Petitioner

By CAROL KING
Attorney for Petitioner

STATE OF NEW YORK, }
COUNTY OF NEW YORK, } ss.:

CAROL KING, being duly sworn, says: I am one of the attorneys for the petitioner herein. I have read the foregoing petition, and the facts therein stated are true of my own knowledge; and as to the matters therein stated to be alleged upon information and belief, I believe said petition to be true. The sources of my opinion and the grounds for my belief are the records in this case and conversations with the petitioner.

The reason why this verification is made by me rather than by the petitioner personally is that the petitioner is in custody at Ellis Island, which makes it very difficult to have this petition signed personally.

I am authorized to sue out the writ of habeas corpus herein and to sign and swear to the petition for such writ. Such authorization is in writing and reads as follows:

"May 21, 1949

I hereby authorize my attorney, Carol King, to sue out a writ of habeas corpus in my behalf and to sign and swear to the petition for such writ and and and all other papers that she may deem necessary.

(Signed) PETER HARISIADES"

CAROL KING

(Seal)

Sworn to before me this
1st day of July, 1949.

IRVING FELCHER
Attorney & Counsellor-at-law
Residing in Kings County
Office and P. O. Address
220 Broadway, N. Y. C.
Kings County Clk. No. 12
Reg. No. A-224-F0
N. Y. County Clk. No. 676
Reg. No. A-321-F-0
Commission expires 3-30-50

Return to Writ of Habeas Corpus

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

[SAME TITLE]

SOUTHERN DISTRICT OF NEW YORK, ss.:

LESTER FRIEDMAN, being duly sworn, says that he is and during all the times herein mentioned has been an attorney in the service of the United States Department of Justice, Immigration and Naturalization Service, attached to the office of the District Counsel, New York District; that in his official capacity he is authorized to make and in behalf of the respondent hereby makes the following return to the writ of habeas corpus herein.

In compliance with the direction of this Court, the body of the said alien in his own proper person is produced herewith before this Court at the time specified in the writ.

It is respectfully urged that upon its face the petition upon which the writ was granted is insufficient in law, and that the writ should therefore be quashed because

(a) The petition does not allege facts to show that the proceedings of the Department of Justice upon which was issued the warrant of deportation pursuant to which the said alien was held, were not regular, fair and in compliance with the statute applicable in such cases, nor facts from which this Court can determine that the proceedings were either irregular, unfair or not in compliance with said statute;

(b) The petition does not allege any facts which entitled this Court to review the findings and conclusion of the Department of Justice upon which the warrant of deportation was issued;

(c) It is not alleged that there was no evidence before the Department of Justice upon which it based or could have based its findings and conclusion in accordance with which the warrant of deportation was issued;

(d) It does not appear by allegation of facts that the issues sought by the petition now to be litigated in this Court have not already been determined by the Department of Justice adversely to the said alien in proceedings which were regular, fair and in compliance with the statute applicable thereto.

As appears by the records of the Department of Justice of the United States with respect to the above-named alien, which records are in possession of respondent and are available for inspection of the Court and of the relator:

1. An immigration warrant for the arrest of the relator herein was duly issued, and pursuant thereto hearings were held before a Presiding Inspector of the Immigration and Naturalization Service.

2. Upon conclusion of the hearings, the record thereof, together with the opinion of the Presiding Inspector containing his findings of fact, conclusions of law, and recommendation, were forwarded to the Commissioner of Immigration and Naturalization.

3. On December 16, 1948, an order was entered by the Commissioner of Immigration and Naturalization directing that the alien be deported to Greece upon the five charges enumerated on pages 45 and 46 of the order, which is part of the record which will be made available to the court. All of these charges involve subversive activities under the Act of October 16, 1918, as amended.

4. A warrant of deportation was duly issued on December 16, 1948 directing that the alien be deported to Greece upon the charges contained in the said warrant.

5. On January 10, 1949, the relator filed a notice of appeal to the Board of Immigration Appeals which entered an order on May 13, 1949 dismissing the appeal and affirming the order of deportation.

6. The custody of the alien was resumed by the District Director of Immigration and Naturalization for the purposes of deportation, the relator being now detained for actual deportation to Greece.

Dated: New York, July 19, 1949.

LESTER FRIEDMAN

Department of Justice Record Annexed to the Return

Record of Original Hearing of October 15, 1946

99183/146

DATE:

October 15, 1946

PLACE:

70 Columbus Avenue, New York City

Presiding Inspector:

GILBERT ZIMMERMAN

Stenographer:

EMMA ZUCKERMAN

Respondent's Counsel, Attorney of Record:

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220 Broadway
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COrtlandt 7-3318

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ISIDORE ENGLANDER
205 East 42nd Street
New York 17, New York
MUrray Hill 4-4170

(Respondent testifies in the English language.)

Presiding Inspector to Respondent:

Q. Do you speak and understand the English language? A. Yes sir.

Q. You are instructed that if you do not fully understand any question, you should say so and the question will be explained. Is that clear to you? A. Yes.

Q. What is your full, true, and correct name? A. The name that I am using now and I am very well known by is Peter Harisiades. But this is not the name that I came from the other country, which was the Greek name, Panagiotis Hatzilias. Then I made it Pete Hagelias.

Q. Have you ever used or been known by any names other than those you have stated? A. Yes, also I have been known by the name Pete Harrison.

Department of Justice Record Annexed to the Return

Examination of Carol King—By Presiding Inspector.

Q. Have you been known by any names other than those you have stated? A. No.

Q. Is that correct, sir? A. Yes.

Q. I now show you and ask you to examine Warrant of Arrest No. 55696/820 issued on April 12, 1930 by the Assistant to the Secretary of Labor who at that time was the proper authority for issuing Warrants of Arrest in immigration proceedings, wherein it is charged that Peter Hagelias or Panojotis Hegelias, who entered the United States at New York ex SS. "King Constantine" on or about July 1, 1916, has been found in the United States in violation of the Act of October 16, 1917, as amended by the Act of June 5, 1920, on the ground that he is a member of or affiliated with an organization, association, society, or group that believes in, advises, advocates, or teaches the overthrow by force or violence of the Government of the United States or of all forms of law. Do you understand the nature of this charge contained in the Warrant of Arrest? A. I understand.

Q. This hearing is being given for the purpose of determining your right to be and remain in the United States, and to enable you to show cause why you should not be deported from the United States on the charge that has just been read to you. Do you understand? A. Yes sir.

Q. Under these proceedings you have the right to be represented by counsel of your own choice and at your own expense. I note that you have two persons appearing here with you, and I ask you to indicate what your intentions are with respect to their appearance in the case. A. They are my attorneys.

Q. Which of them is your Attorney of Record and which is the Associate? A. Mrs. Carol King is my attorney, and Mr. Englander is the Associate.

Presiding Inspector to Attorney of Record:

Q. Please identify yourself for the record. A. Carol King, 220 Broadway, New York 7, COrtlandt 7-3318; admitted to practice before the Board of Immigration Appeals May 7, 1944, and Attorney at Law in good standing.

Inspector's Note: Notice of appearance on file.

I would like to state that Mr. Isidore Englander is associated with me in this case, but I think it will simplify everything if all notices are sent to my office.

Examination of Isidore Englander—By Presiding Inspector

Q. Are you ready to proceed with the hearing at the present time? A. Yes.

Presiding Inspector to Associate Attorney:

Q. Please identify yourself for the record. A. Isidore Englander, 205 East 42nd Street, New York 17, MUrray Hill 4-4170; admitted to practice before the Board of Immigration Appeals and the Immigration and Naturalization Service on May 1, 1944; a member of the Bar of the State of New York, in good standing.

Inspector's Note: Notice of appearance on file.

Q. Are you familiar with the regulations governing the appearance of Associate Counsel in cases before this Service? A. I am.

Presiding Inspector to Respondent:

Q. You are informed that you and your attorneys have the right to offer evidence to meet any evidence against you, to cross-examine any witnesses that may be brought in, and to make objections to be entered on the record. Do you understand? A. Yes.

Q. Are you willing to be sworn to tell the truth as to all matters pertinent to your right to be and remain in the United States? A. Yes sir.

Q. Will you stand up and raise your right hand, please? Do you solemnly swear that all the statements you are about to make at this proceeding will be the truth, the whole truth, and nothing but the truth, so help you God? A. Yes, sir.

Q. Sit down, please. You are informed that if you wilfully or knowingly give false testimony at this proceeding, you may be prosecuted for perjury, the penalty for which upon conviction is a fine not to exceed $2,000. and imprisonment of not more than five years. Do you understand? A. Yes, sir.

Q. Do you have any question as to the meaning of the word "perjury" or as to the penalty therefor? A. No, I have no questions. I understand.

Q. Is the information as to your names and aliases that you have given, true and correct? A. Yes. As far as I remember, they are true and correct.

Examination of Peter Harisiades—By Presiding Inspector

Q. Prior to coming to the United States, what name or names did you use? A. Only one name, Panagiotis Hatzilias.

Q. After entering the United States, during what period of time and under what circumstances have you used the other names that you have given as names that you have used? A. Well, I first continued to use my Greek name. Soon after, I can't say how long it was after I came in, I made it Pete Hagelias. In other words, I changed the spelling of the second name.

Q. You were known to all your friends and everybody by that name, is that right? A. At that time I was known to all my friends by that name; and after for convenience I began using Pete Harrison, I can say about ten years ago.

Q. You were known generally by that name? A. Yes, except that in all my official writings and dealings I used the name Peter Hagelias. When I was known by the name Harrison, I was known by a small circle of people by that name; but I was generally known by the other name, Hagelias.

Q. Are you the person named in the Warrant of Arrest which has been shown and explained to you? A. Yes, sir.

Q. A copy of the Warrant of Arrest is entered in evidence in your case as Exhibit #1. Do you understand? A. Yes, sir.

Q. This Warrant of Arrest provides that, pending further proceedings, you may be released from custody under bond in the sum of $1,000. Do you understand? A. Yes, sir.

Q. You are presently at large in these proceedings upon your own recognizance, is that correct? A. Yes, sir.

Q. The file in the New Bedford office of this Service, No. 530/281, indicates that the Warrant of Arrest, now Exhibit #1, was requested by the Inspector in Charge of this Service at New Bedford, Massachusetts, on March 7, 1930 upon the basis of a statement made by the subject of the file, Peter Hagelias or Panojotis Hagelias. Do you understand? A. Yes.

Q. The New Bedford file of this Service further indicates that after issuance of this Warrant of Arrest, now Exhibit #1, the subject, Peter Hagelias, could not be located, and that from investigation it appeared that he had left the City of New Bedford, Massachusetts, for parts unknown

shortly after the date of the original investigation and statement secured from him. Do you understand this information contained in that file? A. I understand this, but I don't remember all those things.

Q. The New Bedford file in your case further indicates that an attempt was made to find the subject of this Warrant of Arrest, now Exhibit #1, in Boston, Massachusetts, in May 1930, and that at that time the subject could not be found in Boston. Do you understand? A. Yes, sir.

Q. The New Bedford file of this Service further indicates that in May 1930 an attempt was made to locate the subject of this Warrant of Arrest, Exhibit #1, in New York City at an address at 789 East 166th Street, and that a Mr. and Mrs. Okin were there questioned but no information could be obtained as to the whereabouts of the subject of this Warrant of Arrest. Do you understand? A. Yes, sir.

Q. The New Bedford file in your case further indicates that in June 1930 this Warrant of Arrest, now Exhibit #1, was returned to the Commissioner General of Immigration at Washington, D. C., unserved inasmuch as every effort made to locate the alien named had proved futile. Do you understand this information? A. Yes, sir.

Q. The New Bedford file in your case further indicates that in January 1931 an attempt was made to find Peter Hagelias in Milwaukee, Wisconsin, but without success. Do you understand this? A. Yes, sir.

Q. The New York file, No. 99183/146, pertaining to Peter Hagelias, indicates that in June 1943 the subject of the file was located in New York City and questioned at 341—9th Avenue, New York City, by a Special Inspector of this Service, and at that time the name as given by the person was Peter Harisiades. Were you questioned in June 1943 at 341—9th Avenue in this city? A. Yes, sir.

Q. The New York file in your case further indicates that, upon your being located in 1943 by this Service, this original, unserved Warrant of Arrest was procured from the Central Office of this Service for use in your proceedings. Do you understand? A. Yes, sir.

Q. Did you begin to use the alias Harrison in order to avoid detection by this Service? A. No, I didn't have it in mind because I didn't know this Service was after me.

Q. For what reasons then did you change your name from Hagilios to Harrison? A. My answer is, not any particular reason, but in order to make it plainer to the people

I was working with or associated with, I was trying to Americanize it. I had some good ideas to Americanize it, but then I Hellenized it again.

Q. Did you leave New Bedford, Massachusetts, in March 1930, after being questioned by an officer of this Service, in order not to be found by him in New Bedford, Massachusetts, thereafter? A. No. I don't remember the incident that an officer was questioning me and then I left. I know I left New Bedford, but I don't remember that particular incident. I didn't keep no notes.

Q. Were you placed by the police in arrest in New Bedford, Massachusetts, in 1930? A. I was arrested in New Bedford several times, but I don't remember whether it was 1930 or 1928. I guess you have the records when it was.

Q. Section 19(d) of the Immigration Act of 1917, as amended, provides that anyone charged with violation of the Act of October 16, 1918, as amended, may not be granted certain privileges authorized in the discretion of the Attorney General under the law. Do you understand?

(Explained by the Presiding Inspector.)

A. I understand the question all right.

Q. What is your home address? A. 392 East 4th Street, Brooklyn, New York, Apartment B-4.

Q. How long and with whom have you been living there? A. I have been living there with my wife and two children. I have been living there for the past six years in the same house.

Q. What is your employment address, and what do you do there? A. My employment address is 132 West 14th Street, New York 11, New York. I am working for the Greek American Tribune or Proodos Publishing Company, Inc., as a member of the editorial staff of that newspaper. I have been working there in the same place since 1940.

Q. How old are you, and when and where were you born? A. I was born on the Island of Samos, Greece. According to my papers I was born in 1903; if I remember correct, it was in January. I am now 43.

Q. You are of the white race, is that correct? A. Yes, sir.

Q. Of what country are you a citizen or subject? A. Of Greeee.

Department of Justice Record Annexed to the Return

Examination of Peter Harisiades—By Presiding Inspector

Q. Have you ever been a citizen or subject of any other country? A. No.

Q. Have you ever taken any steps to acquire citizenship or nationality in any other country? A. Only in the United States of America.

Q. What steps did you take, and on what dates did you take them, to become a citizen of the United States? A. I took out first papers I think in 1922 in Canton, Ohio. I let them drop, and then I applied again for my second papers two years ago. I never applied for first papers again because I was married to an American citizen and didn't have to. I think I applied in December or November 1944 here in Brooklyn, New York.

Q. Do you have any papers showing your applications for citizenship in this country? A. Yes.

Respondent presents triplicate copy of United States Declaration of Intention No. 6373 issued in the Common Pleas Court of Stark County, Ohio. Declaration indicates that Pete Hagelias, age 20, born Anlakia, Greece on January 6, 1902, came to the United States from Piraeus, Greece, on the vessel "King Constantine", that he was not married, and that it was his bona fide intention to renounce allegiance to the government of Greece; that he arrived at New York March 25, 1916. Declaration is signed Pete Hagelias, and is subscribed and sworn to before the Clerk of the Court on October 17, 1922. Declaration bears the seal of the Court. (Returned)

Respondent also presents card of the United States District Court for the Eastern District of New York, Naturalization Bureau, Brooklyn, New York, in the name of Peter Harisiades, showing Petition filed December 28, 1944 on page 422209. (Returned)

Inspector's Note: According to the file room, file 06-192 relates to respondent's application for citizenship. Search has not located it at the moment.

Q. This Declaration of Intention dated in 1922 that you have shown, indicates that you then stated that you were born January 6, 1902 in Anlakia, Greece. How do you explain the discrepancy appearing in that statement as to your date and place of birth? A. This is the name of the town on the Island of Samos, Greece, in which I was born.

As far as the date, I guess I didn't look at my papers, and I just put it like that. I made an error on this form.

Q. What was the outcome of your application for second papers, which you say you submitted in Brooklyn about two years ago? A. Up to the present time no outcome except I have been called twice for questioning down there. I paid the money, everything else, but no papers as yet. As I say, I intend to become an American citizen if I can.

Q. Do you have any documents, such as a passport, birth certificate, or other papers showing your birth or citizenship? A. I have a certificate from the mayor of my local municipality.

Respondent presents two documents: one, a certificate with accompanying translation, which indicates that the document is a certificate by the head of the municipality, certifying that Panagiotis Hadgielias was born in the year 1903 in Bourlioton. Certificate in its translation is dated January 3, 1916.

The second document is apparently a passport or document in lieu of passport, No. 29, and issued by the authorities in Samos on January 13, 1916, and bears two photographs. Document indicates that Georges Jean Hadjilia, age 44, accompanied by son Panoyotis, age 13, were requested by the Greek authorities to be permitted to pass freely to America. Document is dated January 13, 1916 under the authority of the Minister of Foreign Affairs, and signed by the police of Samos, and bears their seal and signature.

Q. I note that on this document in the nature of a passport there are two photographs: one of a boy, and another of a man. Which of them is you? A. The boy is me.

Q. These documents will be retained in your file pending final disposition of your case. Do you understand? A. I do understand.

Q. What is your father's full and correct name, and where was he born? A. My father's name is Georgios Jean Hatzilias. He was born on the Island of Samos, Greece.

Q. Is he now living? A. He is still living, yes, sir.

Q. Where does he now live, and of what country is he a citizen or subject? A. He lives on the Island of Samos, Greece, and is a citizen of that country.

Q. Was your father ever a citizen or subject of any other country? A. No.

Q. What is your father's exact mailing address? A. Avlaikia, Island of Samos, Greece.

Q. What is your mother's full and correct maiden name, and where was she born? A. My mother's name is Haristo. I don't remember her correct maiden name. She was born in Samos, Greece.

Q. Where does she now live, and of what country is she a citizen or subject? A. She lives with my father in the same country, and she is a citizen of Greece.

Q. Was your mother ever a citizen or subject of any other country? A. No.

Q. Was either of your parents ever in the United States? A. My father came to the United States with me in 1916.

Q. How long was he in the United States at that time, and when did he leave? A. My father was here about four years, and returned to Greece about 1920. He didn't come again to the United States after that.

Q. During the time that your father was in the United States, did he apply for or obtain United States citizenship? A. No.

Q. How many times have you entered the United States? A. Only once.

Q. When, where, and how did you enter the United States from a foreign country? A. I entered at the Port of New York from Piraeus, Greece, in 1916. I never remembered the month, and that is why in some places your file gives July and in some places March. I guess that can be determined by anyone looking at the records, the exact month. I came as a passenger on the "King Constantine", and came with my father to stay in the United States.

Q. At the time of your entry, what name were you using? A. I stated that before, that I came with the name of Panagiotis Hatzilias.

Q. Did you come directly to the United States with your father from Piraeus, Greece? A. By boat directly. I don't know if it stopped anywhere enroute, but I know we didn't change boats.

Q. I now show you and enter in evidence as Exhibit #2 a Request for Verification of Arrival, Form I-423, in the case of Peter Hagelias, which bears a report of search at New York dated May 10, 1946, indicating inability to verify the arrival of a person by the names you have given,

at New York on July 1, 1916. This report of search further indicates that there is no record of arrival of the "King Constantine" at New York in 1916 or 1917. What do you have to say with respect to the inability to verify your entry as you claim, and further the fact that there appears to be no record of the arrival of the "King Constantine" at New York in 1916 or 1917? A. I came I think under the Greek spelling of my name, Hatzilias, which is a little different from what is on this form. To the best of my recollection I did come either in March or July 1916 to New York. I think the ship was the "King Constantine", but they were changing kings so often in those days it may have been under the name of another king.

Q. Do you have any slip or card that may have been given to you at the time of your arrival, among your effects at home? A. I don't have at the present time nothing.

Q. You are informed that a further effort will be made to verify your arrival on the date you mention and under the spelling of your name that you give. Do you agree to have the result of such further search of the records entered in evidence in your case as part of this Exhibit #2 without your further appearance here? A. Yes, I do agree.

Q. Have you been out of the United States at any time since 1916 when, as you state, you arrived? A. No, I have never been out of the United States since then.

Q. Did you go to school immediately after arrival? A. Not immediately. I went to work.

Q. When did you begin going to school? A. About a year and a half after.

Q. Would that be about 1917 or 1918? A. Around 1918.

Q. Where did you go to school, and under what name did you attend? A. First of all, I want to state I went to a night school, not a day school, with the name that appears here, Pete Hagelias, in Beloit, Wisconsin.

Q. To whom were you and your father destined at the time of your entry, about 1916? A. I don't know; I don't remember. I thought I was coming to friends.

Q. To whom did you go after entering the United States about 1916? A. From New York we went to Freeport, Illinois, to friends coming from the same place I come from. One name I can remember, Alexander Haroufalis.

Q. How long did you stay in Freeport with your father? A. I can't remember now how long we stayed. I don't think we stayed very long because we went working on the

railroad in the same state but quite a way from Freeport, Illinois. It was the Illinois Central Railroad. I was working there as a water boy, I remember; I was too small.

Q. Did you work there with your father under the name of Hagelias? A. Yes, but I don't know under which spelling.

Q. When your father returned to Greece about 1920, from what port did he leave the United States? A. I suppose he left from New York. I didn't come with him. I stayed in Akron, Ohio, when he left.

Q. With whom were you staying in Akron, Ohio, at the time he left? A. I stayed with my brother-in-law, a man who married my sister. The name of my brother-in-law is Gus Kacos. I don't remember the address he was at then. His address now is 257 The Brooklands, Akron, Ohio.

Q. When did your sister come to the United States? A. She came to this country about 1921 or 1922. She was married in Greece to my brother-in-law whose name I gave you. He came here before my sister, a couple of years before, I don't know exact when it was.

Q. This office has information that you came to the United States illegally about 1921 or 1922. What have you to say to that? A. This is not correct information because in 1922, as you see, I applied for first papers to declare myself to become an American citizen.

Q. In addition to your arrest in New Bedford on two occasions, concerning which you testified, have you ever been arrested anywhere either in the United States or abroad on any other occasion? A. Yes.

Q. Will you state where and when and for what reasons you were arrested on all of the occasions on which you were arrested, in chronological order, so far as you can remember? A. I do not remember the months and the dates. I can tell you to the best I can remember, but I don't want it held against me if I am wrong as to the time. I recall the best I can that I was first arrested in about 1928 in New Bedford, Massachusetts, for strike activities. I was taken in and I stayed two days or three or four, and then I came out on bail. I went back to the strike activities, and I was arrested again the same year. I stayed a few days and I came out again on bail. I went back to the strike activities and I was arrested again. I think one time I stayed about ten days; I couldn't find the bail so soon. I came out again on bail and I went back to the strike

activities. I don't know whether I was released on the same bail all the time. So far as I know, the union put up the bail to get me released.

Q. What was the disposition of these arrests? A. These charges went to a Court together with many other cases, about sixty of them. I don't remember the specific charge; I think it included disturbing the peace, inciting to riot, picketing unlawfully. The outcome was that I was not sentenced. The Lower Court sentenced the whole group of us to, I think, the best I can remember, to two years. The lawyer appealed to the Higher Court, the whole group of cases, and then all these cases were dismissed.

Q. Did you serve any jail sentence upon your conviction on any of these arrests in New Bedford about 1928, concerning which you have just testified? A. No. I didn't serve on a jail sentence on the basis of any conviction.

Q. After that, where were you again arrested and under what circumstances, and when did that arrest or arrests occur? A. I was arrested again in Fall River, Massachusetts. I don't remember exactly whether I was arrested first in Fall River and then in New Bedford, or just the reverse, but it was about the same year. I was arrested about four or five times in Fall River for the same reason, connected with the textile strike. The Fall River cases and New Bedford cases were the same thing. They went to the same Court in New Bedford. They were disposed of together.

Q. Were you an organizer for a union at the time of those strikes in Fall River and New Bedford in 1928? A. I was not an official organizer of the union, although I was doing an organizing work. I was one of the strikers, workers.

Q. What were you doing there at the time? A. I was working in one of the mills, I don't remember the name of the mill.

Q. In what capacity were you working? A. I was a loom fixer helper.

Q. When were you again arrested after that, and what were the circumstances? A. I was arrested once more, in Wheeling, West Virginia; that must have been around the end of 1930, although maybe I am mistaken, participating in an unemployed demonstration or something. I was just taken in to jail and then released. Nothing happened; there was no trial, no jail.

Q. Were you brought before a judge and charged with anything at that time? A. No, sir.

Q. It appears that you were arrested in New Bedford, Massachusetts, in 1930 as well as in 1928, as you state. For what reason were you arrested in New Bedford in 1930? A. Sir, I don't remember that arrest.

Q. Have you been arrested on any other occasions than those you have stated? A. No, I have never been arrested on any other occasions.

Q. Other than the occasions concerning which you have testified, have you ever been charged with any crime or wanted by the police authorities in the United States or abroad for any crime? A. No, sir.

Q. Do you have any documents from the police showing what record they have pertaining to you? A. I have only documents from the Police Department of New York.

(Respondent presents certificate dated September 12, 1946, from the New York City Police Department addressed to Mr. Peter Harisiades, showing the absence of any record pertaining to him.)

Q. This certificate is entered in evidence in your case as Exhibit #3. Do you understand? A. Yes, sir.

Q. How long have you been continuously residing in New York City? A. I have been residing in New York City, since 1933.

Q. You are informed that this office is in receipt of a report dated in May 1946 by the Federal Bureau of Investigation, Identification Division, which indicates that that Division has no record pertaining to you. Do you understand? A. I do.

Q. Have you ever been supported or aided by public funds? A. No.

Q. Have you ever been an inmate of a public institution? A. No.

Q. Have you ever served in the armed forces of any country? A. No.

Q. Are you presently a member of or affiliated with any club, organization or society of any description? A. Yes, I am a member of one society, Hellenic American Fraternal Society of the International Workers Organization. In other words, it is affiliated with the I.W.O.

Q. How long have you been a member of that organization? A. I have been a member I think since 1935. I might explain that beginning in 1935 I became a member of an English lodge of the I.W.O. The Hellenic American Fraternal Society was organized three years ago. At that time I transferred my membership from the English lodge to the Hellenic American Fraternal Society.

Q. What is the business address of that Society? A. 80 Fifth Avenue, New York City 11.

Q. Is that where you attend meetings of the Society? A. Once in a while I attend meetings there.

Q. What is the nature of the Hellenic American Fraternal Society and of the International Workers Order? A. That's a fraternal society, sells life insurance to its members, insurance for sickness. It has a medical department, to pay so much every three months and have your own doctor, etc., etc.

Q. Does the Hellenic American Fraternal Society or the I.W.O. have any political attachments or affiliations? A. No.

Q. Other than the organization which you have mentioned, have you ever been a member of or affiliated with any club, organization, or society in the United States or abroad? A. Before that I was also a member of a Greek workers' club called Spartacus. This club went out of existence I think around the year 1940 or 1941. I think I was a member since 1933.

Q. What was the nature of the Spartacus Club? A. That was a sort of an educational club. It did not carry fraternal benefits.

Q. Where did it have its business office? A. At the northeast corner 25th Street and 8th Avenue, New York City.

Q. Did the Spartacus Club advocate any political beliefs or doctrines? A. Not the Club as such, but members of it. They believed—I suppose there were all kinds of people there—but not the Club as such. It was not affiliated with anything political. It was an independent club.

Q. Was it organized solely for social recreation of its members? A. Social recreation; they was delivering lectures, all kinds of lectures, and in Greek or English. They had parties there, and dances, all kinds of that sort.

Q. Were you an officer in either one of the organizations that you have mentioned? A. Yes, I am a member of the National Committee of the Hellenic American Fraternal

Society. I have been a member of that National Committee since the last convention which took place I think about three years ago in New York. Before that I was just a member. I was never an officer of the Spartacus Club.

Q. Have you ever been a member of or affiliated with any club, organization, or society other than those that you have mentioned? A. If you consider it a society or club, I am a member of the Greek American Council offices on West 42nd Street in New York City.

Q. How long have you been a member of that Committee? A. Since it was organized; I think it is a little over two years ago.

Q. For what purpose was it organized? A. It was organized during the occupation of Greece by the Germans. It was organized to acquaint the American public about the International Liberation Front of Greece, called EAM.

Q. In what capacity did you serve on this Committee? A. That Committee is a national committee. Its Executive Board reside in New York, and I am a member of the National Board and a member of the Executive Board. I am not an officer.

Q. Is that Committee sponsored by any organizations or parties in the United States? A. No, it is not sponsored by any organizations or parties.

Q. Have you ever been a member of or affiliated with any clubs, organizations, or societies other than the ones you have mentioned? A. Well, I have been a member in the past of the Communist Party of the USA.

Q. Do you recall the exact date that you joined the Communist Party of the USA or its predecessor party? A. Yes, I joined in 1925 the Communist Party or the Workers (Communist) Party. Again I don't remember the month.

Q. Prior to that time had you joined any party or organization in the United States, of any description? A. Yes, sir, I joined once the Socialist Labor Party of America. That must be about 1922, 1923. In Akron, Ohio, I joined, I remember. I dropped out, I guess, shortly before I joined the Workers (Communist) Party, whatever they called it at that time.

Q. Where and under what circumstances did you join the Workers (Communist) Party? A. I joined in Boston, Massachusetts. I was following the outdoor speeches on Boston Commons, and listened to the speakers. Before that I had some Socialist ideas, being a member of the Socialist

Labor Party. At one time they distributed applications for membership in the Workers (Communist) Party at one of the outdoor lectures on Boston Commons, and I took one of these applications and I took it home. Then I decided to join. I filed out an application and joined.

Q. What branch or unit of the Workers Communist Party of the United States did you join at the time? A. They assigned me to one of the branches of that Party, I don't remember the name. It was a branch in the territory where I was living at the time, which was around Dudley Square in Boston.

Q. At the time you joined the Workers (Communist) Party, were you issued a membership book? A. Yes, sir.

Q. Where is that membership book at the present time? A. I don't have that membership book. I think it is destroyed.

Q. About when did you destroy that book? A. I don't remember.

Q. In what cities or places did you serve as a member of the Communist Party? A. I served in Boston; I served in New Bedford, Fall River; I served in Ohio, Wheeling, West Virginia; and I served in New York.

Q. From 1925 until what date were you continuously a member of the Communist Party of the United States? A. I was continuously a member until the latest part of 1939. Again I cannot give you the month because I don't remember it. I am sure it was the latest part of the year.

Q. When was the name of the Party changed from the Workers (Communist) Party to the Communist Party of the United States of America? A. If I don't remember well—I think the name was changed in 1929 but I cannot be very sure about it; I only think it was changed in 1929.

Q. During all of that time were you a member in good standing of the Communist Party of the United States of America? A. Yes, sir.

Q. During all of that time were you in possession of a membership book in the Communist Party of the United States of America, and did you regularly pay dues? A. Yes, sir.

Q. Do you have any of your membership books that you have been issued while a member of the Communist Party of the United States of America? A. No, I don't have any of my membership books.

Q. What has happened to them? A. I gave them up. I destroyed them.

Q. For what reason did you destroy them? A. Not for any particular reason. Just I didn't need them any more.

Q. How often, in general, did you pay dues in the Communist Party of the United States of America during the period that you were a member? A. Well, in certain periods they were paying dues every month, and in other periods every week. I think most of the time it was monthly dues, they were monthly dues.

Q. How much dues did you pay? A. Various amounts. They were not all the time the same, varying from ten cents a week to a dollar a month.

Q. Upon payment of dues were you furnished your assessment stamps and did you place them in your membership book of the Communist Party of the United States of America? A. Yes, sir.

Q. Since the time you joined the Party in 1925, have you ever been an official of that Party? Or have you been a member of any of its various committees? A. I was a rank and file member for about a year after I entered. Then I became a member of the Branch Executive Committee of the branch of which I was a member. I served for some time in that capacity. That was the sole position I had in that branch. I don't remember exactly how long I was a member here, maybe a couple of years.

Q. In what other official capacities, other than as rank and file member, have you served in the Communist Party of the USA? A. Also I served in 1930 as a sort of organizer of the Communist Party in New Bedford, Massachusetts.

Q. By "a sort of organizer", do you mean you had no specific title? A. No specific title, no. I think that was around New Bedford and Fall River that I was a sort of an organizer of the Party.

Q. Did you participate in the Fall River and New Bedford strikes concerning which you have testified, in your capacity as organizer for the Communist Party of the USA? A. No. However, I was considering my work as a work of my Party.

Q. Were you at that time attempting to gain new members for the Communist Party of the USA? A. It is quite possible that as a member of the Party I was trying to get others, but I don't actually remember whether I was or not.

Q. Were you an organizer for the Boston unit of the Communist Party of the USA? A. Yes, sir.

Q. Did you hold any offices in the Party simultaneously with being an organizer for the Party? A. No.

Q. How long did you serve as an organizer for the Communist Party of the USA? A. I think I was that maybe for five, six, seven months.

Q. After that, to what duties or positions were you assigned? A. After that I think I went, as I told you before, in the Ohio Valley. I was a section organizer for the Party.

Q. In what place did you have your offices? A. That was right across from Wheeling, West Virginia, a little town called Bridgeport, Ohio.

Q. Were you wholly engaged in activities for the Communist Party as section organizer? A. Yes, sir.

Q. Were you paid for your services, by the Communist Party of the USA? A. Yes, sir.

Q. What was your pay during that period of time as section organizer? A. Very, very small. Sometimes I was given $10 a week, sometimes $12, and sometimes $15.

Q. During what years were you section organizer of the Communist Party of the USA with offices in Bridgeport, Ohio? A. That was about 1931 I think. It was all within 1931.

Q. After serving as section organizer for the Communist Party of the USA, to what duties were you then assigned? A. Then I came to New York about 1932, and I became a member of the Greek Bureau of the Communist Party. In 1933 or the latter part of 1933, I became secretary of the Greek Bureau of the Communist Party. I was secretary of the Greek Bureau of the Communist Party until part of 1937.

Q. Was the Greek Bureau a subdivision or a unit of the Communist Party of the USA? A. That was a subdivision, not a unit.

Q. What was the specific task assigned to this subdivision? A. The specific task of the Greek Bureau of the Communist Party was to publish a newspaper of the Party in the Greek language, organize its distribution, secure subscriptions, etc., etc., and do in the Greek field whatever educational or other activities that the Party was engaged in.

Q. During that period of time were you paid wages by the Communist Party of the USA? A. No. While I was the secretary I was working for the paper also, and I was getting paid from the paper. The paper was issued by the Greek Bureau of the Communist Party.

Examination of Peter Harisiades—By Presiding Inspector

Q. What was the name of the paper, and during what years were you associated with its publication? A. The name of the paper was "Empros", and I was associated from 1933 up to 1939, the latter part of 1939. The paper went out of existence October 6, 1939, and I remained I think until it closed up.

Q. In what capacity did you serve on the paper? A. On the writing staff, sort of an editor. I wasn't the main editor.

Q. Was this publication a Greek language newspaper? A. Yes, sir.

Q. About how often was it published? A. Every week.

Q. Was the paper self-sustaining or did it receive funds from the Communist Party of the USA? A. This paper never received funds from the Communist Party of the USA. This paper had deficits many times, and was asking its readers to finance and to help. They received $5, $10, whenever we had deficits.

(Hearing recessed for lunch at 12:30 P. M.; reconvened at 1:30 P. M., and respondent advised that he is still under oath administered in the morning, and that the penalty for perjury then explained to him still applies.)

Q. Did the editorial policy followed by the "Empros" follow the Party line dictated by the Communist Party Executive Committee? A. The paper followed the Party line as interpreted by the Greek Bureau of the Communist Party.

Q. Did you, as a member of the Greek Bureau of the Communist Party participate in determining the policies to be followed by the newspaper "Empros"? A. Yes, I was participating in determining the policies followed by the "Empros".

Q. How many members were on this Greek Bureau? A. About seven.

Q. Did each member have an equal voice in determining what the editorial policies would be? A. Yes, sir, an equal voice and vote.

Q. Were the editors of the "Empros" required to comply with the policies decided by the Greek Bureau? A. Yes. They were required to carry on the policies decided by the Greek Bureau.

Q. In your capacity as sort of editor for the newspaper "Empros", did you write any of its editorials? A. Yes,

I did, some of them, but most of the time I was doing other work than editorial work.

Q. What was this other work that you speak of? A. I was writing stories directly, what was going on in the world, New York, or this and that. I was translating when I found something in English that I thought it was necessary for the Greek readers to know about it, either political, economic, or labor; I was translating it.

Q. In regard to the editorials which you personally prepared, were any of them on political topics? A. Yes.

Q. What view did you express in relation to the capitalist crisis in the United States? A. Well, it was based upon the particular situation of the moment. I suppose that always I was of the opinion that responsible for the crisis were not the people at large, but those in the upper places controlling the industries. So that was the general line I was expressing, specifically for the crisis of 1929-30-31, etc.

Q. Did you in the editorial which you personally prepared, suggest a means whereby these capitalist crises could be done away with or overcome? A. Yes. I was suggesting first of all the workers to organize in trade unions, all of the workers, not only part of it, so that they should be united. Secondly, through the power of the unions, they will be able to have higher wages and better conditions. Also through the trade unions and becoming interested in politics, they would become a determining factor also in the politics of the country.

Q. Did you in your editorials support the political view that private ownership of the means of production should be expropriated? A. Well, I expressed the view that if the working people, if ever it was possible for them to be in power, in other words to be in the government, they should do that, to nationalize the industries, make the industries part and parcel of the country, of the government.

Q. Did you in your editorials indicate any view that the owners of the means of production would combat any effort by the people to nationalize these industries? A. I cannot say specifically if I did in those editorials, I cannot recollect quickly. But I can tell you my view on this subject.

Q. What is your view on this subject? A. My view on this subject is that the owners of the means of production will combat any such serious intentions on the part of the workers to nationalize the industries, or of the government, not only the working class government but any government.

Q. Is it your view that the government of the United States as presently constituted and under its constitution is required to protect the private property rights of the people who own the means of production? A. Yes, the government is bound under the constitution to protect the private rights of the owners.

Q. And are you in favor of a revolution of the working classes to take over the means of production if it cannot be done by constitutional amendment? A. Well, in this subject my opinion is as follows: that the workers and the people should try to do all that through legal and constitutional means. If they succeed, then of course, and if they have a majority of the Congress, they will pass laws and regulations of doing all these things. However, the question is if the owner class will give in peacefully to the intentions of the people, or the owner class will not use whatever power it still has in its power against those intentions.

Q. By that do you mean the forces of the army and the navy and the police power of the states? A. Any forces that they have at their disposal. I don't know if that will be the official police force or the private detachments of police force as many years back different companies had in this country, or it will be part of the army that they still control.

Q. On the basis that the owners of industry still control the army and the navy and the police forces in the United States at such time as the proletariat attempts to take over control of the government, do you advocate the use of force to accomplish control of the government by the proletariat? A. No, I don't advocate force and violence on the part of the proletariat to accomplish what they intend to accomplish.

Q. During the time that you were a member of the Communist Party from 1925 to about 1939, was the Communist Party of the United States of America affiliated with the Communist International, and through the Communist International with Communist parties in other countries? A. Yes, it was.

Q. During what years was the Communist Party of the USA affiliated with the Communist International? A. I don't remember when it joined, what year it joined, but I think that the Communist Party of the United States ceased its affiliation with the Communist International in 1940, if I remember well.

Q. At that time was the Communist International officially abolished? A. No.

Q. Then so far as you know, during all of the time that you were a member of the Communist Party of the United States of America, it was affiliated with the Communist International, is that correct? A. Yes, sir.

Q. During the period of time that you were a member of the Communist Party of the USA, did you fully agree and subscribe to the published aims, doctrines, and principles of the Party? A. Yes, sir.

Q. During the period of time that you were a member of the Communist Party of the USA, did you fully agree and subscribe to the aims, doctrines, and principles of the Communist International with which the Communist Party of the USA was affiliated? A. Well, on this question I will answer this way: The way Communists look at it, no document is any more than an effort to express as well as it can be done what has come to life up to the time that the document was written. The document is always imperfect, and it is never thought of as a perfect document and never looked upon as being a perfect expression of a program for the present or the future. It always has to be taken with a sort of open mind for new developments.

Q. Your answer does not appear to me to be pertinent to my question, so I will repeat the question. During the period of time that you were a member of the Communist Party of the USA, did you fully agree and subscribe to the aims, doctrines, and principles of the Communist International with which the Communist Party of the USA was affiliated? A. Yes, taking into consideration certain conditions and developments, and it was an open mind always to new developments. In other words, I cannot take a document of that sort, which was worked out in 1928 if I remember correctly, and say, yes, this document as it was written can be applied at any time or in any country, because a document like that, the program of the Communist International, talks and has in mind all the countries of Europe, America and Asia. Therefore some parts that can apply in China or Japan cannot apply in Greece; and some other parts or statements that can apply in Greece or Yugoslavia or Bulgaria cannot apply in the United States. So that is why I gave my answer with those reservations.

Q. But am I to understand you as saying that the program of the Communist International has only limited application to each country, depending upon its condition? Is that your statement? A. That is my statement. As for instance, the program of the Communist International refers to peasants. There are peasants in many countries in Europe, but we have sharecroppers, not peasants, in the United States.

Q. What would you say was the ultimate objective to be accomplished in each country in accordance with the doctrines of the Communist International, prior to its dissolution? A. It was trying to accomplish socialism, which means that all the means of production and distribution should be the common property of the State. First, if it is a socialist state, it will be used for the benefit of the people. If it is a Fascist state, it will be used for the benefit of the Fascists.

Q. Are you acquainted with the fact that in 1938 the Communist Party of the United States of America, at its Tenth National Convention, advocated a constitution which was ratified by the Party membership? A. Yes, sir.

Q. I now show you a pamphlet published by the Workers Library Publishers, Inc. in August 1938 which purports to be the Constitution and By-Laws of the Communist Party of the United States of America, adopted as I have stated, and I ask you if you have any doubt or any reason to doubt that this is a true copy of the said constitution.

(Respondent examines pamphlet.)

A. I have no reason to doubt that this is a true copy of the constitution and By-Laws of the Communist Party.

Q. This Constitution and By-Laws, which the pamphlet indicates was adopted in 1938 by the Communist Party of the USA, is entered in evidence in your case as Exhibit #4. Do you understand? A. Yes, sir.

Q. Your attention is invited to page 5 of this Constitution, which contains the Preamble in which is set forth: "By establishing common ownership of the national economy, through a government of the people, by the people, and for the people; * * * by the establishment of socialism, according to the scientific principles enunciated by the greatest teachers of mankind, Marx, Engels, Lenin, and Stalin, embodied in the Communist International; * * *

To this end, the Communist Party of the United States of America establishes the basic laws of its organization in the following Constitution."

This extract that I have quoted appears to indicate that the Communist Party in its constitution was endeavoring to accomplish common ownership of the national economy in accordance with the principles enunciated by great Communist leaders and as embodied in the Communist International. Do you have any comment to make as to my interpretation of this extract? A. No, I don't have no comment to make that is different, except to what is said here.

Q. I further invite your attention in this Exhibit #4 to Article XI on page 21, "Affiliation", which reads as follows: "The Communist Party of the U. S. A. is affiliated with its fraternal Communist Parties of other lands through the Communist International and participates in International Congresses, through its National Committee. Resolutions and decisions of International Congresses shall be considered and acted upon by the supreme authority of the Communist Party of the U. S. A., the National Convention, or between Conventions, by the National Committee."

Have you any statement to make in regard to this Article, indicating the affiliation of the Communist Party of the USA with other Communist parties through the Communist International? A. Well, I have to make the following statements. We should pay close attention to the following: "Resolutions and decisions of International Congresses shall be considered and acted upon by the supreme authority of the Communist Party of the U. S. A." That proves, this statement here proves very definitely and concretely that the Communist Party of the USA had to pass upon the decisions and programs of the Communist International, and on the basis of that general guidance to adopt its own program on the basis of the conditions prevailing in the United States. Which means again that if we find all kinds of statements in this program of the Communist International, all of these statements are not applicable to the United States.

Q. However, is it correct that, as indicated in the Preamble, the ultimate objective of the Communist Party of the United States of America is to accomplish common ownership of the national economy through the principles

embodied in the Communist International? A. Yes, the general principles, this is correct.

Q. I now show you a pamphlet entitled "Program of the Communist International", Third Edition published February 1936 by the Workers Library Publishers, Inc., which indicates on its flyleaf that this "Program of the Communist International, together with the Constitution, was adopted at the forty-sixth session of the Sixth World Congress of the Communist International, September 1, 1928", and I ask you whether you have any reason to doubt that this is a true copy of the program and constitution as indicated in this note.

(Respondent examines pamphlet.)

A. I have no reason to doubt. It is the same thing I have.

Q. This pamphlet entitled "Program of the Communist International", is entered in evidence in your case as Exhibit #5. Do you understand? A. Yes, sir.

Q. This flyleaf in Exhibit #5 indicates that there were editions of this document—the first originally in 1929, the second in 1933, and the third in 1936. Do you have any reason to doubt that this program and constitution contained in Exhibit #5 were unchanged during the period of time from 1929 to 1936? A. I have no reason to doubt.

Q. On the basis of your experience and knowledge gained through your Communist Party membership, could you state whether or not there were any changes in the program and constitution of the Communist International from the time that they were adopted in 1928 until the Communist International was dissolved about 1943? A. I don't have no idea if any changes were made. I don't know if changes were made since then. Maybe they were, but I have no knowledge.

Q. I now show you a publication entitled "Programme of the Communist International" published, as indicated on its flyleaf, by the Workers Library Publishers, Inc., which shows it was a First Edition published in 1929, and I ask you if you have any reason to doubt that this is a true copy of the program and constitution?

(Respondent examines pamphlet.)

A. I haven't got any particular reason to doubt, but at the same time I never saw this before.

Q. This "Programme of the Communist International", First Edition published in 1929, is entered in evidence in your case and made part of the exhibit now #5. Do you understand?

By Attorney King: I object to the First Edition of the "Programme of the Communist International" on the ground that there has been no showing that it is the official program of the Communist International.

Presiding Inspector to Attorney King:

Q. Your objection is overruled on the ground that I have compared in general this publication with the edition which is now Exhibit #5 and, in so far as I can ascertain, it is identical with it. Do you understand? A. Yes, but I want my exception noted upon the ground that it has no official standing, as nobody familiar with the document has examined it and stated that it was the program of the Communist International.

Presiding Inspector to Respondent:

Q. I invite your attention to page 10 of the "Introduction" to the "Program of the Communist International", to an excerpt therefrom as follows: "Basing itself on the experience of the revolutionary labor movement on all continents and of all peoples, the Communist International, in its theoretical and practical work, stands wholly and unreservedly upon the ground of revolutionary Marxism and its further development, Leninism, which is nothing else but Marxism of the epoch of imperialism and proletarian revolution. * * * the Communist International is the only international force that has for its program the dictatorship of the proletariat and communism, and that openly comes out as the organizer of the international proletarian revolution."

This excerpt that I have read to you appears to indicate that the program of the Communist International is to accomplish the dictatorship of the proletariat through an international proletarian revolution. What have you to say to that? A. Well, I can say the following, or rather I will say what I said before, that this program here is a general guide, and the Communist Party of the United States was

not obliged to apply this general guidance in the United States because no such conditions are prevailing here.

Q. By that am I to understand that it is your view that the Communist Party of the United States could obtain the common ownership of the means of production in the United States without armed revolution? A. Well, I would say that the Communist Party did not at that time believe in it or teach in the way that some people interpret these paragraphs or programs. I will say that not a single Communist in the whole world believed in or taught what is in that document, referring to that particular question. The Communist Party of the United States believed, at least I believed that under the conditions prevailing in the United States, the Communists believed and they were preparing to make every effort to establish the common ownership of the means of production by peaceful means. But at the same time they knew from history, and it is a life history, that the owner class when it will find that the government of the United States is turned over to the hands of the people who want to establish the common ownership of the means of production, they will not give up power, they will use force against the will of the majority of the people. They did it during the Civil War when the United States government under the presidency of Lincoln decided to abolish slavery. They used armed violence against the United States government.

Now this owner class is more powerful, more greedy, and more determined not to allow the people to establish their own power and to take the means of production away from them and make them become the common property of the government. In such a case I believed in and I still believe, the majority of the people has to crush this armed violence against the people and establish the law.

However I want to state the Communists did believe and did teach the general contents of this program, with many exceptions. My point is made more clearly in this same document on page 36 where the program of the Communist International says: "The bourgeoisie resorts to every means of violence and terror to safeguard and strengthen its predatory property and its political domination. . . . Hence, the violence of the bourgeoisie can be suppressed only by the stern violence of the proletariat."

It is not the workers or the progressive people that will start any violence.

Q. Your attention is further invited to page 35 of the "Program of the Communist International", wherein is stated: "Proletarian revolution, however, signifies the forcible invasion of the proletariat into the domain of property relationships of bourgeois society"; and to page 36 thereof, wherein is stated: "The conquest of power by the proletariat does not mean peacefully 'capturing' the ready-made bourgeois state machinery by means of a parliamentary majority. * * * The conquest of power by the proletariat is the violent overthrow of bourgeois power, the destruction of the capitalist state apparatus (bourgeois armies, police, bureaucratic hierarchy, the judiciary, parliaments, etc), and substituting in its place new organs of proletarian power, to serve primarily as instruments for the suppression of the exploiters."

These excerpts that I have read to you from this Exhibit #5 seem to me to indicate that the program of the Communist International rejects obtaining control of the means of production by peaceful means. What have you to say to that? A. Well, first of all, I will say again that this is a general principle and cannot be applied mechanically to every situation and to every country. But at the same time it seems to me the program of the Communist International, knowing the nature of the ruling classes, of the owner classes, and having in mind experience from history, it seems to me it warns the people not to be so naive and feel that, as soon as they go to the ballot box and vote for a certain party or a certain program and they have the majority, these owners of the means of production and the Wall Street bankers and the other rulers, will tell them, "Gentlemen, here we are, take it over". So that is what I think the program of the Communist International has in mind.

And I come again to the point to say that, of course I cannot be sure about it, taking experience from history and even from present experience, they will use force and violence against the majority that went to the ballot box to bring about a radical change. And in that case I don't expect the workers or the people who voted for certain radical change to sit down and take it. I think that they have the legal right first of all to protect, to defend themselves, and, secondly, to defend their decision by voting for a radical change. I think that is what the authors, I think, had in mind when they were writing these paragraphs here.

Q. Your attention is further invited to this Exhibit #5, "Program of the Communist International", page 54, wherein is stated: "Countries of highly developed capitalism (United States of America, Germany, Great Britain, etc.), having powerful productive forces, highly centralized production, with small-scale production reduced to relative insignificance, and a long established bourgeois-democratic political system. In such countries the fundamental political demand of the program is direct transition to the dictatorship of the proletariat."

What have you to state as to this published portion of the program of the Communist International which specifically refers to the United States and which seems to me to indicate a direct revolutionary change? A. Well now, the Communists will not propose to destroy American democracy and do not propose to decrease the amount of democracy in this country, but on the contrary to increase it. The Communists do not want to introduce dictatorship in place of democracy. On the contrary, the Communists want to do away with dictatorship altogether. And this very same "Program of the Communist International" says so.

Q. Will you show me where this program so states? A. That is on page 19, the last sentence, which reads: "The dictatorship of finance capital is perishing to give way to the dictatorship of the proletariat."

Q. Am I to understand that it is your view that dictatorship of the proletariat is synonymous with common ownership of the means of production? A. No.

Q. Would you explain what is your understanding of the meaning of the term "dictatorship of the proletariat"? A. In this respect I want to repeat what is the meaning of this program. This theoretical program is to abolish the dictatorship of finance capital or the dictatorship of the owners of the means of production, and instead to establish the rule of the majority of the people which, however, under the circumstances that these rulers of finance capital will not become so easily lawful citizens but they will use all means and illegally to fight against the new political power of the workers that is the government already, and for this reason the government will have to use some measures severe measures probably, if you call them dictatorial measures, against the minority, will pass laws against them, will arrest them, will punish them, because they refuse to abandon their struggle against the majority of the peo-

ple. And since the proletariat will be the political power of the government, this situation is referred to as the "dictatorship of the proletariat".

Q. How do you expect the proletariat to get in control of the government as you state? A. Well, I guess I have to go back again to the same thing.

Q. Let me rephrase my question this way: By ballot means or by revolutionary means? A. Well, I tell you, Mr. Inspector, not I or somebody else can say at the present time what exactly will be the necessary means at the moment. But I am at the present time—I believe that still there is the possibility to do this by the ballot process, unless in the meanwhile, in the meantime, the owner class will succeed to abolish the present law and constitution of the United States in order to prevent the people from doing this, and force them to go into force and violence.

Q. Your attention is further invited to page 87 of this Exhibit #5, in paragraph 3 of the "Constitution of the Communist International", which reads as follows: "Membership in the Communist Party and in the Communist International is open to all those who accept the program and rules of the respective Communist Party and of the Communist International, who join one of the basic units of the Party, actively work in it, abide by all the decisions of the Party and of the Communist International, and regularly pay Party dues."

Your attention is invited to the fact that this paragraph 3 indicates that a member must accept the program and rules of the Communist Party and of the Communist International, and doesn't use the term "or". What have you to say to that? A. Yes, we did say already that we did accept it, the general intentions and guidance of this program. This does not mean, in my estimation, to abide mechanically to every phrase and every paragraph.

Q. Do you recall that in your testimony previously today, you indicated that you were in the police station at New Bedford, Massachusetts? Is that correct? A. Yes, sir.

Q. Do you recall that you testified previously that you do not recall making a statement before an Inspector of this Service at that time? A. I did not remember, no.

Q. I now show you a two-page statement which was contained on the New Bedford File 530/281, which is dated at "Police Headquarters, New Bedford, Mass., March 6, 1930, 3:15 P. M.", which bears on page 2 certain signatures,

among them the signature of Peter Hagelias, and I ask you whether you can identify that signature.

(Respondent examines two-page statement.)

A. Yes, it is my signature, I suppose, unless there was such a man capable of doing my handwriting. It looks like my handwriting. Still I don't know whether it is mine because I don't remember this incident. But it looks like my signature.

Q. I ask you to examine the statements to which is appended the signature Peter Hagelias, which you have identified as looking like your signature, and I ask you whether reading it may recall the fact that it was made by you.

(Respondent and both attorneys read the two-page statement.)

A. Let me say this it seems to me, Mr. Inspector, Mr. Zimmerman, is a correct statement, having in mind it was made so many years ago. Maybe certain formulations are not so correct, but generally speaking that was correct answers, whoever made them. Still, I don't remember making them. Generally speaking, it must be mine, but I don't remember. I don't have a very good memory after ten years.

Q. Do you have any reason to doubt that the statements appearing on these two pages were actually made by you? A. I say there is nothing radical wrong that I can't say it was my statements, but still I don't remember making such statements as written; but still I say there isn't something there I could not make at the time.

Q. Your attention is invited to the fact that the signature Peter Hagelias, which you have identified as being similar to your own, was witnessed by two individuals and the statement was sworn to before an Inspector in Charge, John G. Hagberg, on March 6, 1930 who, according to our New Bedford file was the Officer in Charge of this Service in New Bedford at the time. Do you understand? A. Yes, I understand.

Q. This statement is entered in evidence in your case as Exhibit #6. Do you understand? A. Yes.

By Attorney King? No objection.

Department of Justice Record Annexed to the Return

Examination of Peter Harisiades—By Presiding Inspector

Presiding Inspector to Respondent:

Q. Your attention is invited to the answer in this Exhibit #6 which appears above your signature, to the effect that the purpose of the Communist Party is to overthrow the present form of government and establish a worker's government. What have you to say to that? A. At the time that I was answering that question, if I was the one that was answering the questions, the Republican Party I think, former President Hoover was in power, and I suppose that I believed at that time as I said there, to abolish that form of government and establish a new one.

Q. My interpretation of the words "the present form of government" is not that it means the present party in control of the government but the nature of the government, that is, its constitution and its legislature, executive and judiciary. What have you to say to that? A. For instance, if we had at that time a government under the leadership of Franklin Delano Roosevelt, with the Congress and the judiciary and the executive power, and so forth, I am sure I would not have made the statement that way. Therefore, my meaning was not all these branches as they are stated in the constitution, but the way that that particular government was executing or putting into effect the laws made by Congress, and the way it was interpreting the constitution, and the way it was using the Executive power in determining policies. I think that I had in mind because at that period the government was using extreme terror against people who were organizing themselves into trade unions and coming out in strikes to better their condition. This did not happen during the twelve years in power of President Roosevelt and his Cabinet, and does not happen even now. I have an example in the New Bedford strike, composed of the majority of Portuguese workers——

Q. Your attention is invited in this Exhibit #6 to the statements wherein you distinguished between the Socialist Party on the right wing and the Communist Party on the left wing. What would you say was the essential difference between the Communist Party and the Socialist Party? A. Well, what I know was that the left wing of the Socialist Party broke away at the end of the First World War and established the Communist Party or what they called it then, the Workers Party——

Q. What did you mean by distinguishing between the Communist Party and the Socialist Party? In other words, where did you feel that they differed after they split? A. The differences were that while the Socialist Party was talking in general phrases about socialism, about establishing socialism, in practice the leadership of the Socialist Party did not make any serious efforts to organize, to help organize the workers into the trade unions for a militant struggle for the betterment of their conditions.

Q. It is my understanding that the essential difference between the Socialists and the Communists is that while they both advocate the common ownership of the means of production, the Socialists preach doing it by peaceable means, and the Communists preach accomplishing it by revolutionary means. What have you to say to that? A. I have to say that this is not the principal difference between the Socialist Party and Communist Party because the Communist Party never taught anybody to overthrow the present system by force and violence. The Declaration of Independence declares that the people have the right to do that, to use force and violence, but the Communist Party does not call for the violent overthrow of the United States government.

Now another difference between the Socialist Party and the Communist Party is that in the First World War the position of the Communist Party, if I can recollect myself correctly, was that that war was an imperialist war. The Socialist Parties did not have the same position. In the Second World War the Communists took the position that it was a just war and they supported that war, the Second World War. It was their opinion that it was a war for national liberation against the Fascists. The Socialist Party took the position that this Second World War was an imperialist war and they did not support it. That's the differences.

Q. During the time that you were an organizer for the Communist Party, did you attempt to distribute publications of the Party? A. Yes. I don't know if I did it personally or if there were others doing it for me.

Q. What publications of the Party did you arrange to have distributed? A. Well, first of all, we were distributing the "Daily Worker", the official publication of the Party, and what other pamphlets they had at the time. I cannot remember now exactly the titles of these pamphlets.

Examination of Peter Harisiades—By Presiding Inspector

Q. Did you participate in the distribution of handbills calling for the overthrow of capitalism? A. I don't remember.

Q. Did you arrange for the distribution of any copies of the "Program of the Communist International"? A. No. Maybe we had them in the office, but I don't remember that I arranged for the distribution of this pamphlet of the Communist International.

Q. If directed by your Communist Party superiors during the period of your membership to take an active part in the overthrow of the existing United States government by force, were you ready to do so? A. I cannot answer yes or no because I know that the leadership of the Communist Party at the time never taught me or asked me to advocate the forcible overthrow of the United States government. Since that is the fact, I cannot see how they would tell me to participate in the forcible overthrow of the United States government. Not only did not teach me, but I didn't find it in an official document of the Party at that time.

Q. Were you prepared as a member of the Communist Party to accept the Party program and doctrines as laid down by your Communist Party superiors, and work to the best of your ability to fulfill its program? A. As laid down by the conventions of the Communist Party, and try on my part to put it into effect to the best of my ability and understanding.

Q. Under what circumstances did you leave the Communist Party about the latter part of 1939? A. I left the Communist Party because the Communist Party decided not to have any non-citizens as members.

Q. Since that time have you been affiliated with or worked with the Communist Party in any manner? A. Since that time I am not a member of the Communist Party, but in my activities it happened many times to associate myself on work with members of the Communist Party.

Q. In what sort of work have you worked with members of the Communist Party? A. For instance, going to meetings as a reporter, many times I happened to be in the company of representatives of the "Daily Worker", as I became acquainted with them, talked with them, had coffee with them, etc., etc.

Q. Have you cooperated since 1939 with the Communist Party in accomplishment of any of its aims as laid down

by its Party conventions? A. Well, I didn't have any official cooperation with the Communist Party since I am not a member since then, but as far as the philosophy is concerned and general principles, I still have the same ideas.

Q. During the time that you were a member of the Communist Party, did you make speeches in which you expounded your ideas about common ownership of property and if necessary the use of force to overcome the force used by the owners of property in an effort to keep their property? A. I cannot recollect if I ever made such a speech, but I did make speeches on different subjects of the moment, either on economic subjects or political subjects.

Q. During the time that you were a member of the Communist Party of the United States and paid dues to it, were you aware of the fact that your dues would be utilized in activities tending to accomplish the ends of the Communist Party, including if necessary the use of force to expropriate private property if the owners of that property refused to give it up? A. Well, I knew that my dues were used for the activities of the Party. There were publications or speakers to tour the country, but it would never occur to me that those few cents I was paying would be used to prepare for the overthrow of the government by force and violence.

Q. Is it correct that all the activities of the Communist Party during the time that you were a member had as their final objective the common ownership of the means of production, obtained if necessary by forcible seizure over the objections of the present owners of the means of production? A. Yes, I knew and I believed that the final objective of the Communist Party was the establishment of socialism by the nationalization of the means of production, but I say again that I was never taught or instructed that we are going to use force and violence to accomplish that. The only thing that was brought to my attention was what I have said before in this statement, that the owner class will be the one to start the force and violence.

Q. Besides the articles that you have written for newspapers, have you ever written any pamphlets or books of any description? A. No.

Q. Under what name or byline is your material in the newspaper published? A. Name of Panos Harasiades.

Examination of Peter Harisiades—By Presiding Inspector

Q. You are informed that in addition to the charge contained in the Warrant of Arrest, the following additional charges are now lodged against you:

(1) That you are in the United States in violation of the Act of October 16, 1918, as amended, in that you have been found to have been after entry a member of the following class set forth in Section 1 of said Act: an alien who believes in, advises, advocates, or teaches the overthrow by force or violence of the government of the United States;

(2) That you are in the United States in violation of the Act of October 16, 1918, as amended, in that you have been found to have been after entry a member of the following class set forth in Section 1 of said Act: an alien who is a member of an organization, association, society, or group that believes in, advises, advocates, or teaches the overthrow by force or violence of the government of the United States;

(3) That you are in the United States in violation of the Act of October 16, 1918, as amended, in that you have been found to have been after entry a member of the following class set forth in Section 1 of said Act: an alien who is affiliated with an organization, association, society, or group that believes in, advises, advocates, or teaches the overthrow by force or violence of the government of the United States.

Do you understand the nature of these additional charges? A. It seems to me they are the same charges as the first one, and I repeat again that the Communist Party does not and never did advocate the violent overthrow of the United States government. The same thing holds true as far as my personal beliefs are concerned.

Q. If you were called upon to do so, would you bear arms for this country? A. Yes, sir.

Q. What do you think of Nazism and Fascism and the principles on which they were based? A. Of course I don't like them. I think that's the most dangerous ideologies not only for America, but for the whole human society, and that was proven during the period when

Nazism was in power. They suppressed all the elementary principles of the people and prepared for struggle not only against the French but the entire world, and for that the entire world united against Fascism and Nazism.

Q. How many times have you been married? A. Once.

Q. When, where, and to whom were you married? A. To Sarah Topol in New York City in 1937.

Q. Do you have the record of your marriage? A. Yes.

(Respondent presents Certificate of Marriage.)

Q. This Certificate of Marriage showing your marriage in New York on September 15, 1937 is entered in evidence in your case as Exhibit #7. Do you understand? A. Yes, sir.

(Original compared and returned.)

Q. Of what country is your wife a citizen? A. United States, by naturalization.

Q. Do you have proof of her citizenship? A. No, but she is a citizen through her father's papers. I can get his papers to show you here.

Q. When did she come to this country, and in what manner was she admitted? A. She was admitted for permanent residence. I don't remember the exact year, but I can get you that information.

Q. Does your wife possess a Certificate of Derivative Citizenship in her own name? A. No, but her name is on her father's papers.

Q. How many times has your wife been married? A. As far as I know, only once.

Q. Since the date of your marriage, have you been living continuously with your wife? A. Yes, sir.

Q. Have you and your wife ever been legally separated or divorced, or has the marriage between you ever been annulled? A. No.

Q. How many children do you have? A. I have two children; one boy two years old, and a girl of seven years old. I have their birth certificates here.

(Respondent presents Certificates of Birth for Irene Harrison Hagelias and George Harrison Hegelias.)

Q. These Certificates are entered in evidence as follows:

Exhibit #8—Certificate of Birth of Irene Harrison Hagelias in New York City in 1939.

Exhibit #9—Certificate of Birth of George Harrison Hagelias in New York City in 1944.

(Originals compared and returned.)

Do you understand? A. Yes, sir.

Q. Are these two children the offspring of yourself and your wife? A. Yes, sir.

Q. How much do you earn in your present employment? A. $50 a week.

Q. Is your wife working? A. Not at the present time. She was working before.

Q. In the event that you were deported, would your wife be able to take care of herself and her two children without you? A. I don't know. She has two children now, they are small children, and I don't know how she could take care of them without me.

Q. What are your total assets at the present time? A. I don't make any other money except my salary. My wife knows better than I how much we have. I can give you the information at a later date.

Q. Where on the Island of Samos were you born? A. The name of the village is Avlaikia, Municipality of Demos Vourliotes.

Q. What is your religion? A. Greek Orthodox.

Q. What are the names and locations of the churches and schools you attended in your native land? A. I attended the church in my little town since I was a baby. I attended school in my native town for six years.

Q. What was your last address in your native country? A. The same town.

Q. You embarked at Greece for the United States, is that correct? A. Yes, sir.

Q. What are the correct names, addresses, and citizenship or nationality of your nearest relatives residing in Greece, other than your parents? A. A brother by the name of Demetrios Hatzilias, residing in my native town; and my sister, Alexandria, I do not know her married name, also residing in my native town. Both are citizens of Greece.

Q. Do you have any near relatives residing in the United States? A. Yes, I have my sister by name Bessie Kacos, residing at 257 The Brooklands—they own their own house —Akron, Ohio. She is a citizen of the United States.

Q. In the event that you were deported to Greece, to what address and to whom would you go? A. I suppose I will have to go back to my own home town, but I am determined not to go.

Q. Are you a party to any lawsuits or workman's compensation cases in this country? A. No.

Q. Would you be subject to persecution if you returned to Greece at the present time? A. It is quite possible, yes, because my views are not in agreement with the present monarchial Fascist government of Greece. I am a democrat, for democracy of the people's rule, and the people down there are fighting against this Fascist dictatorship they have with the help of Great Britain. I will do the same thing. Therefore I think I would be persecuted.

Q. Have you registered under the Selective Training and Service Act of 1940? A. Yes, sir.

(Respondent presents registration certificate in the name of Peter Harisiades, 392 East 4th Street, Brooklyn, N. Y.; registered 15th day of February 1942 by the Registrar for Local Board 187, Kings County, New York. (Returned.)

(Respondent also presents notice of classification dated January 2, 1945, showing that he was classified 4-A by the Local Board, No. 187, 568 East 5th Street, Brooklyn, N. Y. His Order Number is 11199. (Returned.)

(Respondent also presents prior notices of classification, one of which shows him to have been in 2-A.) (Returned.)

Q. Have you registered under the Alien Registration Act of 1940? A. Yes, sir.

(Respondent presents Alien Registration receipt card No. 5300756 in the name of Peter Harisiades, 392 East 4th Street, Brooklyn, N. Y.) (Returned.)

Examination of Peter Harisiades—By Presiding Inspector

Presiding Inspector to Attorney King:

Q. Do you have any questions that you wish to ask the respondent? A. Yes. However, I would like an adjournment as it is now almost 5 o'clock and I would like to have more time in which to question the respondent.

Presiding Inspector to Respondent:

Q. Hearing in your case is adjourned to Monday, October 28, 1946 at 9:30 A.M. Do you understand? A. Yes, sir.

Q. You are being continued at large upon your own recognizance pending final completion of your proceedings. Do you understand? A. Yes, sir.

Q. Are you returning to the residence address at which you have been residing? A. Yes, sir.

HEARING ADJOURNED

(Subject to call of the government.)

(Alien's release continued on his own recognizance.)

GZ:EZ
T 11-18-46

I certify the foregoing to be a true and correct transcript of my shorthand notes of the testimony taken by me in the above case.

EMMA ZUCKERMAN,
Stenographer.

Record of Original Hearing of January 30, 1947

Continued Hearing:

PLACE:

70 Columbus Avenue, New York 23, N. Y.

Presiding Inspector:

GILBERT ZIMMERMAN

Stenographer:

VIVIAN H. GARNETT

Respondent's Counsel:

CAROL KING (Attorney of Record)
220 Broadway, New York 7, N. Y.

ISIDORE ENGLANDER (Associate Counsel)
205 East 42nd Street, New York 17, N. Y.

(Respondent testifies in the English language.)

Presiding Inspector to Respondent:

Q. What is your full, true and correct name? A. Peter Harisiades. Originally it was Peter or Panagiotis Hatzilias and later on it was simplified to Pete Hagelias.

Q. What is your present address? A. My address is 392 East 4th Street, Brooklyn, New York.

Q. Are you the person by those names who was given a warrant hearing in deportation proceedings in this building on October 15, 1946, which was adjourned to October 28, 1946? A. Yes.

Q. Is it correct that by mutual agreement between me and your attorney the hearing scheduled for October 28, 1946 was postponed until today? A. Yes.

Q. At this continuation of your hearing today you have the right to be represented by counsel of your own choice and at your own expense. I note that the attorneys who represented you previously are present today. They still represent you in these proceedings—is that correct? A. Yes, that's correct.

Presiding Inspector to Attorney King:

Q. Are you ready to proceed with the continuation of the hearing today? A. Yes.

Examination of Peter Harisiades—By Presiding Inspector

Presiding Inspector to Respondent:

Q. You are informed that you and your attorneys have the right to offer evidence to meet any evidence against you, to cross-examine any witnesses that may be brought in, and to make objections to be entered on the record. Do you understand? A. Yes.

Q. Will you stand up and raise your right hand, please, to be sworn. Do you solemnly swear that all the statements that you will make at this proceeding will be the truth, the whole truth and nothing but the truth, so help you God? A. Yes, sir.

Q. You are informed that if you knowingly or wilfully give false testimony, that is, tell lies at this proceeding, you may be prosecuted for perjury, the penalty for which, upon conviction, is imprisonment for not more than five years and a fine of not more than $2,000. Do you understand? A. Yes.

Q. Do you recall at the original hearing on October 15, 1946, a pamphlet entitled "Program of the Communist International", Third Edition, 1936, was entered in evidence as Exhibit #5, and also a pamphlet, "Programme of the Communist International", 1929 Edition, was entered in evidence as part of Exhibit #5? A. Yes.

Q. To avoid confusion in the record, the latter, "Programme of the Communist International", 1929 Edition, is redesignated as Exhibit #5A to distinguish it from the other edition in view of the objection of your attorney to the now designated Exhibit 5A. Do you understand? A. Yes.

Q. The objection of your attorney, which was noted in the record, to this redesignated Exhibit 5A is not affected by the change in the designation of this exhibit. Do you understand? A. Yes.

Q. The excerpts from the "Program of the Communist International" which were quoted in the record were taken from Exhibit 5 and not the now designated Exhibit 5A. This point is made clear because of the fact that the page numbering is different in the editions. Do you understand? A. Yes.

Q. Is it correct that you testified at the original hearing that you were a member of the Communist Party and its predecessor, Workers (Communist) Party, from about 1925 until some time in 1939? A. Yes.

Q. Was it also your testimony that about 1921 or 1922 you joined the Socialist Labor Party and dropped your membership in that Party shortly prior to joining the Workers (Communist) Party in 1925? A. Yes.

Q. Then is it correct that you are personally familiar with the history of the Communist Party in the United States from about the time that you first joined the Socialist Party? A. I am, as much as it is possible for a person to remember.

Q. According to the information that I have been able to obtain, the Communist Party of the United States began in 1919 as a result of a split in the Socialist Party, which is distinguishable from the Socialist Labor Party. Certain factions that split merged in 1921 into the Communist Party of America under the legal expression, "Workers Party of America". According to the same information, the Communist Party of America was dissolved in 1923 and the "Workers Party of America" became the sole exponent of the Communist movement in the United States, functioning as a section of the Communist International which had its headquarters in Moscow, U. S. S. R. So far as the knowledge you possess of the history of the Party, is this information correct? A. I think it is correct.

Q. Also, according to this information that I have been able to obtain, the name of the Party was officially changed from the Workers Party of America to the Workers (Communist) Party and continued to function as the American section of the Communist International. In 1929 the last dissentient faction within the Communist Party, the so-called "Lovestone Group", was liquidated and the Party was renamed the Communist Party or the Communist Party of the U. S. A. According to the knowledge that you have of the Party, would you say this information is correct? A. In the main I think it is correct.

Q. According to this information that I have available, the Communist Party or the Communist Party of the U. S. A., remained as the American section of the Communist International all of the time up to 1940 when it withdrew from the Communist International. Is that correct? A. Yes.

Q. Is it correct that during all of the time that you were a member of the Communist Party or its predecessor party,

the Workers (Communist) Party, the Party was a section of the Communist International? A. Yes.

Q. According to the information that I have available, the Communist Party of America was dissolved in 1943 and in its place there was formed the Communist Political Association. Some time prior to this change, also in 1943, the Communist International was officially dissolved. Upon the basis of the knowledge that you have of the history of the Party, would you say this information is correct? A. Yes.

Q. At the time that you joined the Workers (Communist) Party in 1925, what instructions or constitution or program was the Party operating under? A. So far as I can remember, there was no set of rules or regulations that the Party had. I think it was operating under the general principles of Marxism as applied to the situation in the United States at the time.

Q. Do you recall that the "Program of the Communist International", 1936 Edition, which was entered in evidence at the original hearing as Exhibit #5, indicated on its fly-leaf that the Program of the Communist International, together with its Constitution, was adopted at the forty-sixth session of the Sixth World Congress of the Communist International, September 1, 1928? A. Yes.

Q. Is it correct that the Workers (Communist) Party as a section of the Communist International sent representatives to this Sixth World Congress of the Communist International which adopted the Program of the Communist International on September 1, 1928? A. Quite possible; I don't remember.

Q. Then it appears that from September 1, 1928 the "Program of the Communist International" set forth the guiding principles and policies which were to be followed by the Communist sections in all countries of the world depending upon the conditions in each country? A. Yes, the general principles.

Q. Then from September 1, 1928 until 1940 when the Communist Party withdrew from the Communist International, the general principles set forth in the "Program of the Communist International" lay down the basis for the principles and policies of the Communist Party of the U. S. A., and its predecessor, the Workers (Communist)

Party? A. Those principles were applied on the basis of the particular situation at the time in the United States.

Q. But is it correct that those general principles set forth in the "Program of the Communist International", as applicable in the United States, were the foundation for the principles of the Communist Party in the United States? A. Yes.

Q. Do you recall that at your hearing on October 15, 1946 the Constitution and By-Laws of the Communist Party of the U. S. A., adopted in 1938, were entered in evidence as Exhibit #4? A. Yes.

Q. From the date in 1928 that the "Program of the Communist International" was adopted by World Congress until 1938 when the Communist Party of the U. S. A. adopted its Constitution and By-Laws, did the Communist Party of the U. S. A. have any written constitution or written principles which lay down its policies? A. I think they had, but I don't remember.

Q. So far as I have been able to ascertain from the information available to this office, the Communist Party of the U. S. A. did not have any written principles or constitution between 1928 and 1938 other than the policies it drew from the applicable portions of the "Program of the Communist International". What comment do you have to make to that? A. My comment is, that can be determined if we have time to investigate whether they did or did not have any written rules because now I can't recall whether they did have or not.

Q. Prior to the issuance of the third edition of the "Program of the Communist International", you had knowledge of the existence of this publication as adopted at the Sixth World Congress of the Communist International? A. Yes.

Q. Do you recall at the hearing on October 15, 1946 that you testified in answer to the question as to whether you arranged for the distribution of any copies of the "Program of the Communist International" that maybe you had them in the office but you did not remember that you arranged for its distribution? A. Correct.

Q. Do you recall the objection of your attorney to the introduction in evidence of the 1929 edition of the "Programme of the Communist International" on the ground

that no one in authority had identified it as a true copy of the program? A. I remember the objection.

Q. On the basis of your having had available copies of the "Program of the Communist International", could you state whether this 1929 edition of the "Programme of the Communist International", which was entered in evidence as Exhibit #5A, is a true copy of the program as adopted at the World Congress on September 1, 1928? A. My answer is, to tell you the truth, I did not compare those two pamphlets in order to determine if both are the same thing.

Q. Upon the basis of your knowledge of the Party, could you state whether the third edition pamphlet of the "Program of the Communist International", which was entered in evidence in your case as Exhibit #5, is a true copy of the program as adopted at the forty-sixth session on September 1, 1928 of the Sixth World Congress of the Communist International and was effective in its entirety from 1928 until the date in 1940 when the Communist Party of the U. S. A. withdrew from the Communist International? A. It seems that is correct.

Q. Is this 1936 edition generally recognized as a true copy of the program? A. Yes.

Q. Are you familiar with the fact that the Communist Party of the United States of America has published a magazine entitled "The Communist"? A. Yes.

Q. Is it correct that this magazine, "The Communist", was officially published by the Communist Party of the United States of America to disseminate articles on the theory and practice of Marxism-Leninism? A. Well, such a magazine was published by the Communist Party of the United States. I don't know whether it was official or not.

Q. I now show you a document which appears to be the May, 1934 edition of the magazine, "The Communist" Volume XIII, May, 1934, No. 5, and ask you whether you can identify this as apparently a true copy of the magazine published for that date.

(Respondent examines magazine.)

A. I have no reason to doubt that it is a true copy.

Q. I now show you the Table of Contents of this May, 1934 edition of the magazine, "The Communist", and invite your attention to the heading which shows that it is

published monthly by the Communist Party of the United States of America, and further invite your attention to the contents shown thereon, to the following article: "The Eighth Convention of Our Party", Page 427, "Editorial". Do you have any comment to make with regard to this page showing that this article was an editorial of the Communist Party of the United States of America?

(Respondent and Counsel examine Table of Contents of magazine, "The Communist".)

A. My statement is that this is an editorial of the magazine.

Q. And the publishers of this magazine was the Communist Party of the United States of America. Is that correct? A. Yes.

Q. And so far as it appears would you say that the editorials appearing in this magazine set forth the policies of the publishers? A. Well, the editorial is supposed to represent the views of the publishers but sometimes the editors make mistakes and they don't represent them.

Q. I now enter in evidence in your case as Exhibit #10 and show you the article entitled "The Eighth Convention of Our Party", appearing on Pages 427 through 429 of this publication, the May, 1934 edition of the magazine, "The Communist". Do you have any comment to make with regard to this exhibit?

(Respondent and Counsel read article.)

A. The comment that I have to make on this editorial is that I cannot say that this editorial represents the official views of the Communist Party.

By Attorney King: I wish to object to the introduction in evidence of Exhibit #10 in the May, 1934 "Communist" because there is no showing that it is an official document of the Communist Party and in any event it was drafted to meet what was then considered to be the situation. It does not represent basic doctrine of the Communist Party and was no longer binding on the Communist Party after the adoption of the 1938 Communist Party constitution. The reception of this document, Exhibit 10, in evidence against the respondent is improper, is incompetent, irrelevant and immaterial.

The application of the Immigration Act of 1940 to an alien for past membership or affiliation whose membership or affiliation terminated before the enactment of that statute renders it unconstitutional as an ex post facto law in violation of Article I, Section 9, of the Federal Constitution.

(Note by Presiding Inspector: Discussion held between Inspector and Attorney King regarding attorney's desire to proceed further and state reasons supporting objection. Inspector indicates to attorney that argument in support of objection should be put in brief.)

Presiding Inspector to Attorney King: Your objection to the introduction in evidence of this Exhibit, No. 10, is noted.

By Attorney King: I further object to not being permitted to state the reasons for my objection as I believe that such interferences with the rights of attorneys is a violation of due process of law and of the new Administrative Procedure Act and interferes with the proper presentation of the case before an administrative body, and I ask to be allowed to state my reasons for the objection made and to present my argument.

Presiding Inspector to Attorney King: Under Title 8, Part 150, of the Code of Federal Regulations, it is provided in Section 150.6(d) that:

> "Counsel shall be permitted to state his objections succinctly, and they shall be entered on the record. Argument of counsel in support of his objections shall be excluded from the record. Counsel, however, may submit such argument in the form of a brief to accompany the record."

For this reason your further objection is overruled. However, as quoted from the rule, you may submit your argument in support of your objection in the form of a brief which will accompany the record.

By Attorney King: I request that so much of my brief as contains the argument in support of my objection be regarded for purposes of later court determination, if any, as a part of the record.

Presiding Inspector to Attorney King: Your request is noted in the record.

Presiding Inspector to Respondent:

Q. With regard to this article entitled "The Eighth Convention of Our Party", which has now been entered in evidence as Exhibit #10, I invite your attention to the first three paragraphs thereof, reading as follows:

> "In endorsing the E.C.C.I. Thesis, the Eighth Convention of our Party was guided by the recognition that the acute problem, the task underlying all tasks, which confronts it today is the development of the subjective factors for the revolutionary situation. For, the downfall of capitalism does not come about through automatic collapse; it is brought about through revolutionary overthrow by the proletariat at the culminating point of its struggle. The revolution is the achievement of the revolutionary class. By recognizing the development of the objective conditions favorable for a revolutionary crisis and by acting upon them, systematically, decisively, with a revolutionary will, the proletariat speeds the moment of capitalism's downfall. Concretely then, the Party's task is the preparation of the working class, through day-to-day struggle, for the practical work of revolution, for its historic role of assuming dictatorship.
>
> "At this time the struggle becomes dynamic, urgent for winning the majority of the working class to the army of revolution; for consolidating, under the hegemony of the proletariat, all the forces of the revolution, all the allies of the workers—the toiling farmers, the urban petty bourgeoisie, the Negro people struggling for liberation from oppression by the American white ruling class. At this time, the most conscious element in the subjective factor of the revolution, the general staff, the Communist Party, without whose leadership the proletariat cannot advance at the head of the toiling masses, must fully prepare itself, its structures and composition, its program, its strategy and tactics, for the historic role of vanguard. And this, according to the tempo demanded by the hour."

Do you have any comment to make with regard to this portion of the article?

(Counsel and Respondent read paragraphs referred to.)

A. As I have already stated, I don't consider this to be the official view of the Party. In regard to what it says, I have the following comment to make, that this editorial was discussing the situation as it was at the time that this editorial was published and as far as the words, "revolutionary", etcetera, to my own understanding, does not mean anything else but a basic change and furthermore the word "revolutionary" is not illegal in the American vocabulary. This word was used not only in theory but in practice by the Founding Fathers of the United States.

Q. Is it correct that the Executive Committee of the Communist International at its Thirteenth Plenum adopted a Thesis in December, 1933, which Thesis is referred to in this Exhibit 10? A. Since I was not present I could not know that such Thesis was adopted but according to the publications it looks like those Theses were adopted at that time.

Q. I now show you the "Program of the Communist International", which was entered in evidence in your case as Exhibit #5 and invite your attention to Page 90 thereof, to the section headed, III. The Executive Committee of the Communist International and Its Subsidiary Bodies, and to Paragraphs 12, 13 and 14 thereunder reading as follows:

"12. The leading body of the Communist International in the period between Congresses is the Executive Committee, which gives instructions to all the Sections of the Communist International and controls their activity.

The E.C.C.I. publishes the Central Organ of the Communist International, in not less than four languages.

"13. The decisions of the E.C.C.I. are obligatory for all the Sections of the Communist International and must be promptly carried out. The Sections have the right to appeal against decisions of the

E.C.C.I. to the World Congress, but the decisions of the E.C.C.I. must be carried out pending the action of the World Congress.

"14. The Central Committees of the various Sections of the Communist International are responsible to their respective Party Congresses and to the E.C.C.I. The latter has the right to annul or amend decisions of Party Congresses and of Central Committees of Parties and also to make decisions which are obligatory for them. (Cf. Par. 13)."

Do you have any comment to make with regard to this excerpt from the "Program of the Communist International", Exhibit 5? A. My comment is, instructions were never put into practice by the Parties or the Communist International, on the basis of my knowledge.

Q. Can you produce any evidence other than your statement that this was not completely effective and binding upon all Sections of the Communist International? A. I have no documentary evidence but I repeat again, on the basis of my knowledge those instructions have never been practiced.

Q. What is the basis of your knowledge on this point? A. The basis of my knowledge is that I don't have any actual experience to prove that those instructions were so carried out. I can add that these regulations were adopted in order to safeguard the basic principles of the Communist International and by these principles I mean the philosophy of Marxism.

Q. In the February edition of the magazine, "The Communist", there was published the Thesis of the Thirteenth Plenum of the Executive Committee of the Communist International. I have here photostatic copies of Pages 131 through 144 of this February edition of the magazine, "The Communist". In view of the unavailability of an original copy of this edition of the magazine, your attorney was asked to familiarize you with the fact that this thesis is actually contained in the February edition of "The Communist": Can you verify this fact that it is so contained?

By Attorney King: We will so concede.

Examination of Peter Harisiades—By Presiding Inspector

Presiding Inspector to Respondent:

Q. This photostatic copy of Pages 131 to 144 of the February edition of "The Communist", which appears to be the Thesis of the Thirteenth Plenum of the Executive Committee of the Communist International, is entered in evidence in your case as Exhibit #11. Do you have any comment to make with regard to this exhibit? A. Yes, Mr. Inspector, I have some comments to make. I have noted them down on notes which I would like to refer to while making the statement.

(Respondent consults notes in making statement.)

I do not think this is a document which belongs in the inquiry at all. It was a Thesis of the Thirteenth Plenum of the Executive Committee of the Communist International. It does not belong in this question because, first, there is no Communist International in existence and this document is not the thesis.

Q. It appears that your comment is actually an objection to the introduction in evidence of this exhibit. Is that correct? A. Yes, in part.

Q. You are represented by counsel and the provisions of Title 8, Code of Federal Regulations, Section 150.6(d), which were stated with regard to an earlier objection by your attorney, apply here. It is requested that objections be stated succinctly so that they may be ruled upon and argument in support of objections be placed in the brief to accompany the record. You are informed that such argument will be considered by the Department and the Board of Immigration Appeals in making an administrative decision in your case. Please state your objection succinctly. A. I would prefer having my attorney make that.

By Attorney King: I object to the introduction in evidence of the Thesis of the Thirteenth Plenum of the Executive Committee of the Communist International for the reason that the organization is no longer in existence, that it was drafted to meet a then existing situation; it does not represent basic doctrine, and is incompetent, irrelevant and immaterial; that at the time of the adoption of the 1938—

Presiding Inspector to Attorney King: It appears that you are now giving argument in support of objection. Please put that in your brief.

By Attorney King: I object to not being permitted to give the reasons and argument in support of my objections.

Presiding Inspector to Attorney King: I presume that the basis for your objection is the same as stated previously in connection with your prior objection. Your objection is overruled on the same grounds as stated previously.

Presiding Inspector to Respondent: Objections of your attorney are noted. Please answer my question as to whether you have any comment to make. If your comment is in the nature of an objection to the document or the reasons why you object to the document, it is desired that such reasoning be placed in the brief rather than stated as your comment.

(Note by Presiding Inspector: At this point, off the record discussion held between attorneys and Inspector as to the length of the comment desired to be made by respondent. Hearing recessed and discussion held by attorneys with Chief, Expulsion Section, and Supervisor, Hearing Unit, and Presiding Inspector. It was determined that full pre-prepared comment be permitted to be introduced, whereupon hearing continued.)

By Respondent (continuing his comment on Exhibit #11):

This exhibit is to be looked at for what it says and not something else. This document did not indicate at all any proposal by anybody to anybody for the violent overthrow of the United States Government or for any unlawful act of any kind under the Constitution and Laws of the United States. To begin with, it was a statement about facts as they existed in 1933 and 1934 after Hitler had begun the Nazi regime in Germany and was engaged in violent repressions of the labor movement, the trade unions, and the Catholic church, and the most cruel torture of the Jewish people. At the same time Hitler was starting on the road to war. The first part of this document merely points out those facts.

Almost everything that is said there has come true since then—and the United States Government and the British and Russian Governments have said the same thing over and over again and especially in the Nuremberg trials. All of these tortures and repressions of the Communist Party and the trade unions and the Jews, Catholic and Protestant churches, and the murders of hundreds of thousands of people—all of this was a part of the preparation of Hitler to make war against us and against the whole world of democracy.

Look on Page 137. It says the Fascist government of Germany is the chief instigator of war in Europe. It says that on the pretext of fighting against the Versailles Treaty, Hitler Germany was trying to form a bloc for the purpose of bringing about a new bloody carving up of Europe for the benefit of German imperialism.

The Thesis says, "Imperialist blocs, headed either by France or Italy, or by Britain, which intrigues behind their backs, are being feverishly reorganized around the key points of imperialist contradictions. Europe has become a powder magazine which may explode at any moment."

That was a warning of just what did happen when Chamberlain and Daladier joined together with Hitler and Mussolini to make a Munich treaty. That was the imperialist bloc that was formed to give the Continent of Europe over to Hitler.

Although this document is obsolete, it seems to me that the American people and the American Government should be very thankful to anybody who gave warning of this so far back as 1933 and 1934.

It says, "Fascism is the open, terrorist dictatorship of the most reactionary, most chauvinist and most imperialist elements of finance capital."

Then it points out why the Fascist war makers were getting control in some countries. It says the capitalists are no longer able to maintain their dictatorship by the old methods of parliamentarism. It says further that the methods of parliamentarism and democracy are becoming a hindrance to the capitalists in fighting against the working class and in their imperialist foreign politics and that a lot of big capitalists have tried to abolish democracy and parliamentary forms of government.

This document here on Page 132 says that all this means that the big capitalists are compelled to pass over to terrorist dictatorship inside of the country and to make imperialist plots with Hitler and the Japanese.

And the whole document calls upon everybody to do everything in their power to prevent the introduction of Fascism and the imperialist policies that were leading at that time to the Second World War.

But the document does not say that there is going to be Fascism everywhere. It says that Fascist dictatorship is not inevitable. It says that it is possible to prevent Fascism and that the people that can do the most to prevent it and to save our country from war are the working class and the labor movement.

It says that the monopolists and their press try to trick everybody by calling for a counter-revolutionary war against Soviet Russia. Just five years after that was said, Germany did start a war but not against the Soviet Union. They started to conquer all of the capitalist countries of Europe and they had practically all of the continent in a few weeks.

That was what this document was warning people against. They talked to Frenchman about how they were going to smash Soviet Russia but what they were really planning to do was to smash France and that's what they did. The document says that the big capitalists in many countries thought they would save capitalism by helping Hitler to get strong to fight Soviet Russia.

On Page 138 the document says what the Communists ought to do:

> "In the conditions of the maturing of the world revolutionary crisis, when the bourgeoisie is trying to divert the ferment, the discontent and the indignation of the masses into the channel of fascization and war in order to strengthen its dictatorship, the main task of the Communists is to direct this mass movement towards the fight for the overthrow of the dictatorship of the exploiting classes."

You will see that again it says that the adoption of Fascist government is not inevitable and it calls upon everybody all over the world to fight against this fascization.

of the State power now in the hands of this small monopolist capitalist class. There is no way out except by establishing a new government of the workers in alliance with the poor farmers, the Negro people, and the impoverished middle class.

"There is no way out except by the creation of a revolutionary democracy of the toilers, which is at the same time a stern dictatorship against the capitalists and their agents. There is no way out except by seizing from the capitalists the industries, the banks and all of the economic institutions, and transforming them into the common property of all under the direction of the revolutionary government. There is no way out, in short, except by the abolition of the capitalist system and the establishment of a Socialist society.

"The necessary first step for the establishment of Socialism is the setting up of a revolutionary workers' government. The capitalists and their agents shriek out that this revolutionary program is un-American. But this expresses, not the truth, but only their own greedy interests. Today, the only Party that carries forward the revolutionary traditions of 1776 and 1861, under the present day conditions and relationship of classes, is the Communist Party. Today, only the Communist Party finds it politically expedient and necessary to remind the American working masses of how, in a previous crisis, the way out was found by the path of revolution."

What comment do you have to make with regard to this quotation from Exhibit #12? A. The first part of the quotation of this exhibit describes the social and economic situation as it existed then. Of course, we remember the economic crisis of 1929, 1930 and 1931 where millions and millions of workers were thrown out on the streets without unemployment insurance. People were starving, evicted from their houses, and so on and so forth. I think it is a true description of the situation that existed then. Now, of course, it says something here about the Government using the police. Well, it is true to a great extent that the police was used against the people who were striking or demon-

strating for relief and unemployment insurance at that period. People were thrown into jail because they had no money to pay rents or because they were demonstrating in front of State capitols or City Halls for relief, etcetera, etcetera. That is the first part—

Q. With regard to the first part, is it correct that the time that you are referring to was 1934? A. That whole period from 1929 to 1934. These were the results of private ownership of the means of production.

Q. Then in 1934 when this was expressed by the Communist Party, that there was no way out of the crisis except by breaking the control of the State power then in the hands of the monopolist capitalist class, you were in concurrence with this view. Is that correct? A. Yes, sure. It does not say, however, breaking the State power. It says, breaking the control that they had in the State, that is, the control in the hands of big business.

Q. Then you concur that at that time the enforcement by the capitalist government with all its police, courts, jails and military, of the monopolist control of the State power should have been broken by setting up a revolutionary workers' government? A. It says to break the control of the small group of monopolists who were in control of the State power. That is what it says, and, furthermore, it says that a new government to be established, new in the sense that it is controlled by the majority of the American people and it says "the workers in alliance with the poor farmers, the Negro people and the impoverished middle class."

Q. Then in 1934 you were in favor of changing the government as it then existed? A. Yes—

(Note: Interruption by telephone call.)

By Respondent (continuing): I would like to change that. That was a slip of the tongue. I would like to state as my answer the following: The time this document refers to, 1933, 1934, the N.R.A. was headed by three of the biggest industrialists in the United States, Mr. Pierre S. DuPont, Mr. Alfred Sloan, Jr., and Mr. Gerard Swope of General Electric, and all of them were fighting to stop the organization of the trade unions and to smash the unions that existed. Now, you will remember that President Roosevelt

You see it is all a mistake to think that the Communists did not care whether the capitalist countries had plain parliamentary capitalist governments or whether they had Fascist governments.

On Page 143 this document says that:

> "There is no way out of the general crisis of capitalism other than the one shown by the October Revolution, via the overthrow of the exploiting classes by the proletariat, the confiscation of the banks, of the factories, the mines, transport, houses, the stocks of goods of the capitalists, the lands of the landlords, the church and the crown."

You will see that this has a special application to countries where there is an established church and kingdom, where a large part of the land is owned by the church and the crown. That is an indication that you simply cannot apply everything the same way in all countries, and nothing in that paragraph could possibly mean, for instance, that the "crown" has to be overthrown in the United States where we have not got any crown. What it does mean though in regard to every country is evidently the idea that the working class should become the chief leading class in the government and that the nationalization of the means of production with the working class in the lead of the political life of the country is the way out.

Presiding Inspector to Respondent:

Q. Your attention is invited to Page 135 of this Exhibit #11 whereon appears the following:

> "It would, therefore, be a right opportunist error to fail to see now the objective tendencies of the accelerated maturing of a revolutionary crisis in the capitalist world * * * The question as to how soon the rule of bankrupt capitalism will be overthrown by the proletariat will be determined by the fighting preparedness of the majority of the working class, by the successful work of the Communist Parties in undermining the mass influence of social-democracy * * * In the U. S. A. there is a wave of mass strikes of the workers and indignation among the farmers

against the bourgeois program for overcoming the crisis."

Your attention is further invited to Page 143 of this Exhibit #11 whereon appears the following:

"The Communist Parties must, with all resoluteness, raise before the masses the task of the revolutionary way out of the crisis of capitalism.

"Against the quack recipes of the fascists and the social-fascists for saving decaying capitalism, the Communists must prove to the masses that the ills of capitalism are incurable. Therefore, the Communists, while defending in every way the demands of the toilers, must untiringly disclose to the masses who are suffering from starvation and exploitation the whole truth, viz, that their catastrophic conditions will grow worse and worse under the blows of the continuous offensive of capitalism, until the toilers succeed in uniting their forces for a counter-blow and the crushing of *bourgeois rule*. (Inspector's Note: Underscoring supplied.)

"There is no way out of the general crisis of capitalism other than the one shown by the October Revolution, via the overthrow of the exploiting classes by the proletariat, the confiscation of the banks, of the factories, the mines, transport, houses, the stocks of goods of the capitalists, the lands of the landlords, the church and the crown."

Your attention is further invited to Page 144, the last page, whereon appears the following:

"The Plenum of the E.C.C.I. obliges all Sections of the Communist International to be on their guard at every turn of events, and to exert every effort without losing a moment for the revolutionary preparation of the proletariat for the impending decisive battles for power."

Do you have any comments to these excerpts which I have quoted from Exhibit #11? A. I do. The first thing I want to say in commenting on these paragraphs is that this docu-

ment is based on the situation existing during that period, at the time that Hitler came to power. If I can remember correctly, we had trouble also in Austria where there was an uprising during that period. I don't remember the exact date or month. The Fascists throughout the world were trying to take over the governments and establish their Fascist dictatorships—

Q. What comment do you have to make with regard to what appears from these excerpts to be an instruction to all sections of the Communist International to take the revolutionary way out of the crisis of capitalism, as shown by the October Revolution?

By Attorney King: I object to the Inspector's failure to permit the respondent to complete his answer.

By Presiding Inspector: Objection noted.

By Respondent (continuing his comment to excerpts from Exhibit #11):

It seems to me that the Communist International was bringing forward the example of the Russian people that after the country was going through severe crises and wars for so many years, they succeeded by taking over the government to stop the wars and to put the country on the road to recovery and reconstruction. So it seems that the Communist International brings this as a good example that the toilers of other countries can also stop the coming of Fascism to power. They can also prevent another war if they succeed to lead the workers and their allies, the farmers, the workers and middle classes, to take over the government from the capitalists and establish their own power. I think this is the meaning of the revolutionary way out because it is really revolutionary if the people succeed in doing this. I don't think that those indicate that the people of other countries should use the same means of taking over power because the means will be determined by the situation in each country. For instance, if the people have, let's say, the Bill of Rights as we have it here, and continue to have it, it seems to me it would be possible for the American people, the American workers, to take over the government and use the government to establish socialism.

Department of Justice Record Annexed to the Return

Examination of Peter Harisiades—By Presiding Inspector

Presiding Inspector to Respondent:

Q. How did the Communists in the October Revolution in Russia in 1917 take over the existing government? A. The Kerensky government promised to the people peace, bread, and land but that was only an empty promise. He was continuing the war. He gave no land to the peasants and no bread to the people and the soldiers and the workers and the peasants received instead bullets from the Kerensky government—

Q. Is it correct that the Kerensky regime in Russia was duly constituted by the legally elected representatives of the people? A. No, it was a counter revolutionary illegal government too. The Czar was overthrown and Kerensky seized the government. It was not elected by the people; it was a revolutionary government.

Q. Is it correct that the Bolsheviks used force and violence to overthrow the Kerensky government in Russia? A. It seems to me that the people of Russia used the same means to overthrow the Kerensky government as the Kerensky forces used to overthrow the Czarist government.

Q. Then the reference to the October Revolution in this Thesis, Exhibit #11, is a reference to an overthrow of a then existing government by means of force and violence. Is that correct? A. The fact is, and I think everybody knows that, that practically all the Russian people were looking for a way out of the terrible crisis they were passing through, wars, starvation, and everything else, and that particular government came into power by overthrowing the Czarist government and then did not give the way out to the people. No government can stand on its feet if the majority of the people are against it. Now the Kerensky government, however, was trying to remain in power under any circumstances by force and violence against the people and there is no doubt that the people then had to defend themselves against the force and violence of a small clique controlling the government.

Q. Is there any further comment that you wish to make with regard to the excerpts at the points that I interrupted you? A. I have nothing more to add in addition to what I have stated.

Examination of Peter Harisiades—By Presiding Inspector

Q. After this Thesis of the Thirteenth Plenum of the Executive Committee of the Communist International, Exhibit #11, was adopted by the Executive Committee in December, 1933, obligirg all sections of the Communist International to exert every effort for the revolutionary preparation of the proletariat for the impending decisive battles for power, did the Central Committee of the Communist Party of America consider this thesis and at a meeting in January, 1934 express its agreement with this thesis? A. I don't know.

Q. And thereafter in April, 1934 there took place the Eighth National Convention of the Communist Party of the U. S. A. at Cleveland, Ohio. Were you in attendance there? A. Yes.

Q. In what capacity did you appear in the convention? A. I was either a fraternal delegate or a press representative, one of the two, but I am sure I wasn't a delegate.

Q. Is it correct that the Convention of the Communist Party of the U. S. A., meeting in Cleveland, Ohio, from April 2nd to 8th, 1934, approved the action of the Executive Committee of the Communist Party of the U. S. A., in declaring its agreement with the Thesis of the Thirteenth Plenum of the Executive Committee of the Communist International, which is now Exhibit #11? A. It seems to me that is correct.

Q. I now again show you the May, 1934 edition of the magazine, "The Communist", an article in which has already been entered in evidence in your case as Exhibit #10, and invite your attention to Pages 430 through 489, which is shown in the Contents to be three resolutions adopted by the Eighth Convention of the Communist Party of the U. S. A., and I ask you whether you have any information that these resolutions were so adopted.

(Respondent examines pages referred to in magazine, "The Communist".)

A. I don't doubt their authenticity. I think they were so adopted.

Q. These same three resolutions, together with a manifesto, appear in a pamphlet entitled "The Way Out"—A Program for American Labor, which on its fly-leaf indicates that it is the Manifesto and Principal Resolutions

adopted by the Eighth Convention of the Communist Party of the U. S. A., held in Cleveland, Ohio, April 2nd to 8th, 1934, with an introduction by M. J. Olgin and shown to be published in May, 1934 by Workers Library Publishers, Post Office Box 148, Station D, New York City, and I invite your attention to the Table of Contents which show that it contains in addition to the introduction, the manifesto and three resolutions of the Eighth Convention of the Communist Party of the U. S. A. On the basis of your knowledge of the occurrences at the convention, would you say that these are true copies of the manifesto and three of the resolutions of the Eighth Convention of the Communist Party adopted in April, 1934? A. Yes.

Q. The manifesto and three resolutions which appear from Pages 20 through 100 of this pamphlet entitled, "The Way Out"—A Program for American Labor, is entered in evidence in your case as Exhibit #12. Do you understand? A. Yes.

By Attorney King: I object to the introduction in evidence of Exhibit 12, the manifesto and three principal resolutions adopted by the Eighth Convention of the Communist Party of the U. S. A., held in Cleveland, Ohio, April 2-8, 1934, as drafted to meet what was then considered to be the situation. They do not represent basic doctrine of the Communist Party. Such manifesto and principal resolutions were no longer binding on the Communist Party after the adoption of the 1938 Constitution which became its only official document and the 1934 documents—

Presiding Inspector to Attorney King: Please exclude argument in support of objection from the record and place it in your brief.

By Attorney King: I object to being limited in stating my reasons for my objection.

Presiding Inspector to Attorney King: You may continue with your objection without argument in support thereof.

By Attorney King: The reception of these documents in evidence against the respondent is improper, is incompetent, irrelevant, immaterial.

Presiding Inspector to Attorney King: Your objection is noted.

Presiding Inspector to Respondent:

Q. Is it correct that at the Eighth Convention of the Communist Party of the U. S. A., which adopted the manifesto and principal resolutions which are now Exhibit #12, there were present voting delegates regularly elected by all the units of the Communist Party in the United States representing all the dues paying members of the Party plus other delegates representing various non-Party but associated organizations, and the voting delegates in complete unanimity adopted this manifesto and principal resolutions? A. That's correct.

Q. I invite your attention to Page 24 of this pamphlet and to the following portion thereof:

> "The crisis cannot be solved for the toiling masses until the rule of Wall Street has been broken and the rule of the working class has been established. The only way out of the crisis for the toiling masses is the revolutionary way out—the abolition of capitalist rule and capitalism, the establishment of the Socialist society through the power of a revolutionary workers' government, a Soviet government."

I further invite your attention to Page 25 whereon appears the following:

> "The experience of the victorious workers of the Soviet Union before, during and after the seizure of power, throw a brilliant light showing the path which must be followed in every land, the path of Bolshevism, of Marx, Engels, Lenin and Stalin.
>
> "In the same period of successful testing of the Bolshevik road in the Soviet Union, we have also the example of the results of the policies of the Socialist Parties of the Second International. The Socialist Parties stood at the head of the majority of the working class in Germany and Austria. The revolutionary upheavals of 1918 in these countries placed power in the hands of the Socialist Parties. Their leaders repudiated the Bolshevik road, and boasted of their *contrasting* (Inspector's Note: Italics supplied) 'civilized', 'peaceful', 'democratic', 'gradual transition to Socialism' through a coalition

government together with the bourgeoisie on the basis of restoring the shattered capitalist system. To this end they crushed the revolution in 1918."

What comment do you have to make to these excerpts, particularly the fact that these excerpts contrast the Bolshevik road and the Socialist road in obtaining a change to socialism? A. I am talking about the paragraph on Page 24 which starts with "The crisis cannot be". That was the estimate of the situation in 1934 and as for the, "the rule of the working class has been established", my answer is, that means until the majority of the American people get rid of the control of Wall Street in government affairs and the working class of America will be in the most decisive position. It talks also about the revolutionary way out and I say that if that could be accomplished, really that would be revolutionary—

Q. What about this phrase appearing here, "the abolition of capitalist rule—(and) the establishment of the Socialist society"? Wherein does this indicate a transition from one to the other by majority rule? A. I will only say that the American people have a right to abolish capitalism if the majority wants and to establish socialism, a socialist form of society—

Q. But where can you show me that the Communists advocated the use of the ballot or a majority of the people to effect the change from capitalist rule to a Soviet government? A. The Communists always say that nothing can be done without the majority of the people being ready for it.

Q. Where in all the publications that have been entered in evidence or any other publications of the Party do you find such? A. I don't know if there is any publication with the exact wording that you want to put it. That, I know from my experience, that no Communist ever believed that it is possible to overthrow a system without the majority of the people and it is their right on the basis of the Constitution, and here it is. I am going to quote from the "Constitution and By-Laws of the Communist Party of the United States of America", Exhibit #4:

"The Communist Party of the U. S. A. upholds the democratic achievements of the American people.

It opposes with all its power any clique, group, circle, faction or party which conspires or acts to subvert, undermine, weaken or overthrow any or all institutions of American democracy whereby the majority of the American people have obtained power to determine their own destiny in any degree. The Communist Party of the U. S. A., standing unqualifiedly for the right of the majority to direct the destinies of our country, will fight with all its strength against any and every effort, whether it comes from abroad or from within, to impose upon our people the arbitrary will of any selfish minority group or party or clique or conspiracy."

That was my understanding since I joined the Communist Party and anything else is just highfalutin phrases.

Q. Is it correct that this Constitution, Exhibit #4, to which you refer, was established to accomplish the establishment of Socialism according to the scientific Marxian principles embodied in the Communist International? A. Yes.

Q. Is it correct that the Communist International is predicated upon the necessity for the conquest of power by the proletariat as a necessary condition precedent to the growth of Socialist forms of economy? A. Yes, you couldn't form Socialism; you couldn't accomplish Socialism without having the Government pass laws to that effect.

Q. Is it not correct that the "Program of the Communist International" lays down as a principle that the conquest of power by the proletariat does not mean peacefully capturing the ready-made bourgeois state machinery by means of a parliamentary majority and that the conquest of power by the proletariat is the violent overthrow of bourgeois power, the destruction of the capitalist state apparatus, such as the armies, the police, the bureaucratic hierarchy, the judiciary and the parliaments? A. The statement made or the question asked by Mr. Inspector that the conquest of power by the proletariat does not mean peacefully capturing the ready-made bourgeois state machinery by means of a parliamentary majority, etcetera—to my understanding, it meant that the countries like Fascist Germany or Japan where the people are completely deprived of

any rights or legal means to take over power from the capitalist class—

Q. Where in the "Program of the Communist International", a copy of which was entered in your case as Exhibit #5, do you get this understanding that the principle is so limited as you state and is not of general application in all countries? A. Well, if you remember well, Mr. Inspector, in the first hearing in answering practically the same questions, I said, and I think you can find it in the record, that the "Program of the Communist International" lays down the general principles that have to be applied in each country on the basis of the particular situation that exist in that country—

Q. But where do you get the understanding that this principle that the conquest of power by the proletariat does not mean peacefully capturing the ready-made bourgeois state machinery by means of a parliamentary majority, does not apply to the United States? A. Because in the United States we still have the Constitution, the Bill of Rights, and no sane people can advance the idea or the theory that the only way to overthrow the capitalist system of the United States is by force and violence—

Q. Is there anything in the "Program of the Communist International" which gives you this understanding? A. That is my understanding and my interpretation.

Q. Is there anything in the "Program of the Communist International" which gives you this understanding or interpretation, or forms a basis for your understanding? Where in this document do you get a basis for your statement? A. The document, "Program of the Communist International", on Page 36 says: "Hence, the violence of the bourgeoisie can be suppressed only by the stern violence of the proletariat."—

Q. Do you mean that this quotation gives you the understanding that the principle of the conquest of power not meaning peacefully capturing the ready-made bourgeois state machinery by means of a parliamentary majority is not to be applied in the United States? Are you using this quotation as the basis for your understanding that this principle is not to be applied to the United States? A. After quoting these few lines from the "Program of the Communist International", I am more convinced than ever

that the bourgeoisie will use force and violence against the majority of the people who are already in power—

Q. Where in the "Program of the Communist International" do you get any basis for the statement that the "majority of the people who are already in power"? A. In the same "Program of the Communist International" I get my basis, on Page 54 of the "Program of the Communist International", Exhibit 5:

> "The uneven development of capitalism, which became more accentuated in the period of imperialism, has given rise to a variety of types of capitalism, to different stages of ripeness of capitalism in different countries, and to a variety of specific conditions of the revolutionary process. These circumstances make it historically inevitable *that the proletariat will come to power by a variety of ways and degrees of rapidity;* (Italics in original) that a number of countries must pass through certain transition stages leading to the dictatorship of the proletariat and must adopt varied forms of socialist construction."

This is my basis when I say that in the United States it is possible for the majority to take over power without using the same means that have to be used in other countries.

Q. With regard to your quotation, I invite your attention to the second paragraph following your quotation on Page 54, in which specific reference is made to countries of highly developed capitalism, including the United States of America, and the program indicates that, "In such countries the fundamental political demand of the program is direct transition to the dictatorship of the proletariat," and it further goes on to indicate that within the scope of the dictatorship of the proletariat one phase of such dictatorship is an economic sphere. It would appear from this quotation that the direct transition that is referred to is abolition of the existing government and establishment of a dictatorship of the proletariat without any reference to accomplishing this by parliamentary means. What comment do you have to make? A. My understanding of what you have just read means that in the United States we

have a highly developed capitalist system and we don't have to go through another bourgeois revolution, but directly we can begin putting into practice socialist methods. Dictatorship of the proletariat is the majority of the working people, which means that the majority of the people will use stern methods against the bourgeoisie who will use undoubtedly violence against the rule of the working class.

Q. Returning to the original quotation from "The Way Out," Exhibit 12, Page 25, from which a quotation was made indicating that the revolutionary way out was the Bolshevik road and this contrasted with the "civilized", "peaceful", "democratic", "gradual transition to Socialism", which was the means that the Socialist Parties advocated to obtain Socialism, what comment do you have to make with regard to this contrast stated by the Communist Party? A. Well, it seems to me that there it accuses the Socialist Parties that when they were in power in Germany and Austria, they did not confiscate and nationalize the industries and they did not clamp down on Hitler but did the bidding of the big business men and opened the gates wide to Fascism and the Second World War and, as you notice, it puts quotation marks around those words, "civilized" and "democratic", because it means they were not civilized and democratic, and now this has been proven because they made way for Hitler in the most savage war of all history and the overthrow of all the democratic governments of Western Europe.

Q. Your attention is invited to Page 26 of "The Way Out," whereon appears the following:

> "In every material respect, the United States is fully ripe for Socialism. • • •
>
> "This tremendous wealth, these gigantic productive forces, are locked away from the masses who could use them. They are the private property of the small parasitic capitalist class, which locks up the warehouses and closes the factories in order to compel a growing tribute of profit. This paralysis of economy in the interest of profit, at the cost of starvation and degradation to millions, is enforced by the capitalist government with all its police, courts, jails and military.
>
> "There is no possible way out of the crisis in the interest of the masses except by breaking the control

broke away from those people who did not want to have any social insurance and protection of labor. What we did not see at that time, in April 1934, was that President Roosevelt would really take a position against the economic royalists, but President Roosevelt saw the truth of the situation and realized the necessity to sacrifice some of the capitalists' profits to make concessions to the "daily bread and milk for children". President Roosevelt was certainly against Socialism but he saw the terrible situation and realized that the only way that it could be met would be to establish liberal laws admitting the right of labor to organize and establish some sort of system of social insurance against starvation and unemployment. Now, of course, the question was asked if I was in favor of changing the government at that time. I want to state now that it seems that some of our conclusions at the time were wrong. Of course, we are human beings and all human beings make mistakes from time to time.

Q. By use of the "we", do you mean the Communists? A. Of course, because the Communists made this statement but one fact can be established, that because the people fought against unemployment and the codes of the N. R. A. and by their struggle and pressure for a change, really a change took place. We can see that from the fact that President Roosevelt fired from the jobs the above-mentioned people and started a struggle against the economic royalists and gave relief and unemployment insurance to the people.

Q. I invite your attention to Page 29 of Exhibit #12 whereon appears the following:

> "The capitalist way out of the crisis lies along the way of wage cuts, speed-up, denial of unemployment insurance, fascism and war. The revolutionary way out of the crisis begins with the fight for unemployment insurance, against wage cuts, for wage increases, for relief to the farmers—through demonstrations, strikes, general strikes, leading up to the seizure of power, to the destruction of capitalism by a revolutionary workers' government."

What comment do you have to make to that? A. It seems to me that does not imply the violent overthrow of the Government, what you have read.

Q. How else can you interpret the term, "seizure of power"? A. Please observe that it does not give any such presumption but, especially in the light of American history, the only presumption we can read into it is that all of these supposedly terrible things, establishing unemployment insurance and preventing wage cuts, increase in wages, and getting relief for farmers, would be done by the United States Government itself lawfully and in the way it has been done.

Q. Does not the term "seizure of power" mean use of force? A. It does not indicate the seizure of power by force and violence. There is nothing in that that would mean the violent overthrow of the Government and, if you want me, I can give you also a little historical example. My example is the following: Abraham Lincoln had to go into Washington on a train guarded by soldiers and with all the lights out and had to put 100,000 troops into the city and around it before he could enter the White House to be President.

Q. Would you say by ordinary usage of the term "seize" that Lincoln seized governmental power? A. In that sense he had to seize power, even though he was lawfully elected President of the United States.

Q. In view of the lateness of the hour, hearing in your case is adjourned until 9:30 A. M., tomorrow morning when it will be continued in this same room from the point at which it has ended today. Do you understand? A. Yes.

HEARING ADJOURNED

(Respondent's release on own recognizance continued)

R 1/30/47
T 2/6/47

I CERTIFY the foregoing to be a true and correct transcript of my shorthand notes of the testimony taken by me in the above case.

VIVIAN H. GARNETT
Stenographer

Record of Original Hearing of January 31, 1947

Continued Hearing:

Date: January 31, 1947
Place: 70 Columbus Avenue, New York 23, N. Y.

Presiding Inspector: Gilbert Zimmerman

Stenographer: Vivian H. Garnett

Respondent's Counsel: Carol King (Attorney of Record)
220 Broadway, New York 7, N. Y.
Isidore Englander (Associate Counsel)
205 East 42nd Street, New York 17, N. Y.

(Respondent testifies in the English language)

Presiding Inspector to Respondent:

Q. Will you stand up and raise your right hand. Do you solemnly swear that all the testimony you will give today will be the truth, the whole truth, and nothing but the truth, so help you God? A. Yes.

Q. You are informed that if you wilfully or knowingly give false testimony at this proceeding, you may be prosecuted for perjury, the penalty for which, upon conviction, is imprisonment for not more than five years and a fine of not more than $2,000. Do you understand? A. Yes.

Q. You are the Peter Harisiades or Hagelias who was given a hearing on October 15, 1946 which was continued yesterday and adjourned until this morning. Is that correct? A. Correct.

Presiding Inspector to Attorney King:

Q. Are you ready to continue with the hearing this morning? A. Yes.

Presiding Inspector to Respondent:

Q. In reference to the matter of seizure that was last discussed, will you state whether it was your understanding that the expropriation of the property of the capitalists was to occur without recompense to the owners of the property

when the Communists took power? A. That will have to be decided by the legislature which would pass laws to this effect.

Q. How do you reconcile your statement with the statement appearing on Page 26 of the pamphlet, "The Way Out", now Exhibit 12, whereon appears the following:

> "There is no way out except by seizing from the capitalists the industries, the banks and all of the economic institutions, and transferring them into the common property of all under the direction of the revolutionary government."

If the Communist Party contemplated in any manner recompensing the owners, why isn't that so specifically indicated in their publication? A. It says very specifically, "under the direction of the revolutionary government", which means we have to be the government; the people or the workers have to be the government to do that. You couldn't do that, expropriate anything, without being the government and on top of this, it seems that the Constitution recognizes the confiscation of property or the chief means of production. I want to put it, the Constitution recognized the confiscation of the chief means of production in the Southern States in 1863.

Q. Does not the term "confiscation" indicate seizure without recompense? A. Not necessarily, and continuing on that line, the 13th Amendment of the Constitution confirms the right of the people to confiscate the means of production whenever it becomes a necessity for the welfare of the nation. In 1865 the new amendment adopted by the Constitution was—

Q. Wherein does the 13th Amendment imply or provide what you state? A. Well, the 13th Amendment as amended in 1865 says: 'Neither slavery nor involuntary servitude shall exist within the United States or any place subject to their jurisdiction." I want to explain that means that was the confiscation of four billion dollars worth of slaves and slaves at that time was the chief means of production in the South.

Q. Then am I to understand that you consider human beings who were slaves to be on the same level as private property? A. I didn't mean to be understood to mean that.

However, the slaves at that time in the South were the chief means of production, were private property. The Communist Party program does not say whether there will be compensation and they have always said that the owners of small savings shall be protected.

Q. Does the fact that they distinguish between the owners of small savings and the owners of large masses of the means of production indicate that they intend to treat the latter differently? A. I don't know if they intend to treat them differently but the fact remains that there is a lot of difference between a small owner of a farm or a house and a little shop and the great production enterprises like steel and coal, electricity, etcetera, etcetera. There is a lot of difference between those two. If you ask my personal view, I am not inclined that there should be such compensation. I am not inclined to the view that there will be such compensation in America for the owners of the means of production. That is my personal view but this is not the view as far as the program of the Communist Party is concerned.

Q. Do you consider yourself to be a man of at least average intelligence? A. I hope so.

Q. Do you think that the government as presently constituted in the United States would come to change so as to approve the seizure of private property, which is guaranteed by the Constitution, without recompensing the owners? A. I can't foresee exactly what will happen, but I am definitely of the opinion that when the American people will decide to change the present form of government or system they will do it and at the same time they will decide to pay for the compensation or not to pay. With regard to the seizure of power, it does not say anywhere to seize power by force and violence. Everybody seizes power. The Republicans in the last election seized power in the Congress and if we succeed to have a new party in the 1948 elections of the workers, farmers, middle class, etcetera, etcetera, and win the elections, these people will seize power. To my understanding, seize power does not mean seizing power through force and violence. Sometimes it does, but not all the time.

Q. With reference to Exhibit 12, "The Way Out", your attention is further invited to Page 29, on which appears the following:

"The capitalist way out of the crisis lies along the way of wage cuts, speed-up, denial of unemployment insurance, fascism and war. The revolutionary way out of the crisis begins with the fight for unemployment insurance, against wage cuts, for wage increases, for relief to the farmers—through demonstrations, strikes, general strikes, leading up to seizure of power, to the destruction of capitalism by a revolutionary workers' government."

I further invite your attention to Page 43, whereon appears the following:

"The Communist Party alone in the midst of the bourgeois and social-fascist deception of the toiling masses, unceasingly pointed out that only the revolutionary overthrow of the capitalist system and the establishment of the Proletarian Dictatorship is the way out of misery for the overwhelming majority of the population."

I further invite your attention to Page 45, whereon appears the following:

"The central task of the Party is to organize and lead the fight against the offensive of the capitalist class, against developing fascism and the threat of imperialist war, and to develop these struggles, on the basis of the fight for the immediate partial demands of the workers, into general class battles for the overthrow of capitalist dictatorship and the setting up of a Soviet government."

I further invite your attention to Page 47, whereon appears the following:

"By our struggle against the danger of imperialist war, we must prepare to convert the imperialist war into civil war."

I further invite your attention to Page 58, whereon appears the following:

> "The Revolutionary Workers' and Farmers' Government—an alliance of the working class with other toiling sections of the population—will establish a real democracy for the overwhelming majority of the toilers and a stern dictatorship against the capitalists and their agents. It will confiscate the banks, the factories, the railroads, the mines and the farms of the big corporations."

I further invite your attention to Page 84, whereon appears the following:

> "On the basis of the struggle for the pressing economic and political needs of the masses, coupled with the bold putting forward and explanation of the Party program, we must lead the masses in struggle not only for their immediate demands, but for the overthrow of capitalism, and the establishment of a Workers' Government (Dictatorship of the Proletariat)."

I further invite your attention to Page 85, whereon appears the following:

> "Without a decisive turn of the Party to work among the masses of young workers, a successful struggle against the attacks of the capitalist class, against fascism, against the intensive preparations for war, and for the establishment of a revolutionary workers' government—Soviet Power, is impossible. Any talk of winning the majority of the working class for the revolution, without the most serious work among the broad masses of young workers, is an empty phrase."

What comment do you have to make to these excerpts that I have quoted?

(Inspector's Note: At request of attorneys, a short recess was declared at this point.)

(Hearing reconvened and the following testimony taken.)

Examination of Peter Harisiades—By Presiding Inspector

What is your answer to the last question before the recess, which was your comment as to the excerpts from "The Way Out"—that I have just cited? A. First of all, I want to state that we are discussing documents that were issued in 1934. These documents today are obsolete and irrelevant to this case.

Q. Upon what basis do you state that they are obsolete? A. On the basis that nobody, except probably the Government, recognizes them as official documents of the Communist Party.

Q. Do you have any evidence other than your own statement to support this view? A. Yes, I do have evidence. Besides what I am going to bring to your attention, a decision was made by the Communist Party itself in 1938 declaring these documents obsolete. The decision of 1938 was not published so I can't bring it here. I was present at the convention when this decision was made. The convention took place in New York and consisted of delegates from all over the country. That was the Tenth National Convention of the Communist Party of the U. S. A. of May 27, 1938, which approved the Constitution and By-Laws which is now Exhibit #4. The second decision was made November 16, 1940, which says:

> "That the Convention formally and officially declares that the Communist Party of the United States is responsible for no political document, policy, book, article, or other expression of political opinion, except such as are issued by itself through its regularly constituted leadership, on the basis of the Eleventh National Convention deliberations and decisions, and of this present special Convention."

I am quoting this from the application of the Communist Political Association for leave to intervene in the case of Harry Bridges vs. I. F. Wixon, in the Supreme Court of the United States, October Term, 1944. I have this petition here. I have been unable to obtain a copy in its original form, of this resolution.

By Attorney King:

I shall attempt to obtain, and think I shall be successful, the Report to the Emergency National Convention of the

Communist Party, New York, November 16, 1940, in which this resolution appears, as originally adopted. I would like to state that the document which respondent is showing is a true copy of the original on file in the United States Supreme Court.

Presiding Inspector to Attorney King:

Q. If you obtain this evidence and submit it to this office, it will be entered in evidence in respondent's case as Exhibit #13 without respondent's further appearance here. In the event that you are unable to obtain this evidence, will you submit a letter to that effect and is it agreeable to you that your letter be entered as this exhibit in lieu of the evidence? A. Yes.

Presiding Inspector to Respondent:

Q. Do you understand what I have just stated to your attorney and is it agreeable to you? A. Yes.

(Note by Presiding Inspector: Respondent presents bound pamphlet, cover bearing title, Supreme Court of the United States, October Term, 1944, Harry Bridges, Petitioner, vs. I. F. Wixon, as District Director, Immigration and Naturalization Service, Department of Justice. Petition for Writ of Certiorari to the United States Circuit Court of Appeals for the Ninth Circuit, in the matter of the application of the Communist Political Association by Earl Browder, its President, and William Z. Foster, its Vice-President, for leave to intervene, submitted by Joseph R. Brodsky, Attorney for Applicant, Communist Political Association, 100 Fifth Avenue, New York 11, New York; printed by the Hecla Press, New York City, which consists of 101 pages. On Page 44 appears in quotations the text of the quotation that respondent has just read. There appears in parentheses after the quotation the following: Report to the Emergency National Convention of the Communist Party, New York, November 16, 1940.) Pamphlet returned.

Q. Please proceed with your answer as to the proof. A. I have another proof. I have here the Constitution of the

Communist Party of the United States of America, adopted July 28, 1945.

By Attorney King:

We would like to submit this in evidence and we would like to have quoted in the record, Article XIV thereof.

Presiding Inspector to Respondent:

Q. This pamphlet entitled the "Constitution of the Communist Party of the United States of America", together with By-Laws of the Communist Party of the State of New York, shown as published by the Communist Party of the State of New York, consisting of thirty-two pages, is entered in evidence in your case as Exhibit 14. Do you understand? A. Yes.

Note by Presiding Inspector: Article XIV on page 23 is as follows:

"Section I. The Communist Party is not responsible for any political document, policy, book, article or any other expression of political opinion except such as are issued by authority of this and subsequent national conventions and its regularly constituted leadership."

Footnote thereto indicates: "Adopted by the Communist Party, U. S. A., July 28, 1945."

Presiding Inspector to Respondent:

Q. Do you have any further proof as to this point that you desire to submit? A. No.

Q. Then is it your statement that this manifesto and three resolutions which have been entered in evidence as Exhibit #12 were effective and were an official expression of Party policy from the time that they were published until the resolution of the Tenth National Convention was adopted on May 27, 1938? A. I think so. As far as the documents were concerned they were considered by many people as an expression of Party policy until 1938.

Q. Do you have any information or knowledge to the contrary that they may not have been such an expression of Party policy from 1934 to 1938? A. Well, I know that in

many respects the Party's attitude was not the same on many things that are contained in these documents, were not the same thing in 1936, as for instance, I remember distinctly the Party's policy in 1936 was not the same towards the government of President Roosevelt after he got rid of the people who were in charge of the N. R. A. and fought against the economic royalists.

Q. But from 1934 to 1938 there was no official document or authoritative expression of Party policy withdrawing these manifesto and resolutions as an official expression of Party policy. Is that correct? A. I do not know of any documents that were issued by the Party before 1938 withdrawing these particular resolutions, but I do know that other documents or declarations were issued by the Party during that time changing its policy in many respects. Of course, I do not have with me such documents to present to you.

Q. Do you desire to stipulate in evidence any documents officially issued by the Party which would contradict the expression of policy contained in the excerpts which I have quoted?

By Attorney King:

A. In view of the fact that respondent has made it clear that all such documents would be obsolete and that the 1934 documents are likewise obsolete, it is not desired to present any conflicting documents.

Presiding Inspector to Respondent:

Q. Returning to the excerpts which I last quoted from Exhibit #12, do you have any further comment to make with respect to them? A. Yes. It seems to me that the paragraphs that you have read do not say and do not imply the use of force and violence. It seems to me that these paragraphs do not give any such implication and, furthermore, I want to state that the first prerequisite for any basic change or revolutionary change is that the overwhelming majority of the people of the United States should be ready and willing to accomplish such a change. I never advocated and, as far as I am able to know and understand, neither did the Communist Party advocate any forcible

overthrow or violent overthrow of the United States Government—

Q. Do you have any official expression of Party policy tending to show that it required an overwhelming majority of all the people in the United States before any basic change would be desired to be effected?

By Attorney King: I believe that respondent did quote some such material yesterday. I believe he wishes to give you some more to the same effect.

By Respondent:

A. I am going to read to you from the Resolution of the Eighth Convention of the Communist Party of the U. S. A., part of Exhibit 12, Page 85, where the following appears:

> "Without a decisive turn of the Party to work among the masses of young workers, a successful struggle against the attacks of the capitalist class, against fascism, against the intensive preparations for war, and for the establishment of a revolutionary workers' government—Soviet Power, is impossible. Any talk of winning the majority of the working class for the revolution, without the most serious work among the broad masses of young workers, is an empty phrase."

And, furthermore, there is another quotation here starting from Page 45:

> "This requires a quickening of the tempo and improvement in the quality of the work of the Party, to fight for winning the majority of the working class * * *."

Another quotation on Page 26:

> "There is no way out except by establishing a new government of the workers in alliance with the poor farmers, the Negro people, and the impoverished middle class."

Presiding Inspector to Respondent:

Q. Do you mean by these quotations that you consider "a majority of the working class" to be synonymous with

"a majority of the people of the United States"? A. Yes, in alliance with the poor farmers, the Negro people, and the middle class—all these constitute the majority of the people of the United States and no change can be accomplished without the union and the decision of this majority.

Q. Do you have an further comment to make with regard to the excerpts which I have quoted? A. Yes, I have the following to say. With regard to your quotation on Page 47 "* * * we must prepare to convert the imperialist war into civil war", I have to state the following: (Reading from prepared notes) Under every condition and all circumstances I, and I think every Communist, will fight for the United States in which I have lived almost all my life and which I regard as my home, but if you study this with an impartial mind you will see that all the way through that what was in the mind of the people who wrote this was the fascization of the government, as it says in the title of the chapter on Page 46: "The Struggle Against the Fascization of the Government and Against Imperialist War and Intervention." The whole idea is that we will fight to prevent this government from being seized by a Fascist gang like Hitler in Germany, or Herman Talmadge in Georgia, who have tried to start wars like Hitler did. I will fight and every Communist will fight to restore the United States Government to the people. It does not mean any war of the United States people and government.

Q. I invite your attention to Page 44 of Exhibit #12 whereon appears the following:

> "The Party itself has been cleansed of opportunists and liquidators (Lovestoneites, Trotskyites) and unified and consolidated on the line of the Communist International."

Do you have any comment to make with regard to this excerpt? A. No comment.

Q. I now show you a July, 1934 copy of the magazine, "The Communist", and invite your attention to the Contents page which shows that it is published monthly by the Communist Party of the United States of America, Volume XIII, July, 1934, No. 7, and further invite your attention to the Contents which show, "The Darrow Report", Page 611, Editorial; and article, "Unify the Forces of all Steel Workers for Aggressive Unionism!—Statement of the Cen-

tral Committee of the Communist Party of the U. S. A.", Page 655. Do you understand? A. Yes.

Q. I now enter in evidence in your case as Exhibit #15 the article appearing in this magazine, "The Communist", for July, 1934 entitled "The Darrow Report", which appears from Pages 611 through 615, and I now enter in evidence in your case as Exhibit #16 the article appearing in this magazine, "The Communist", entitled "Unify the Forces of all Steel Workers for Aggressive Unionism", which appears in this magazine from Pages 655 through 663. Do you understand?

By Attorney King: I object to the introduction in evidence of any portion of "The Communist" for July, 1934, Exhibits 15 and 16, as incompetent, irrelevant and immaterial. The magazine, "The Communist", was a magazine of discussion not limited to official publications of the Communist Party and parts, at least, were not written by Communists. The July, 1934 issue and the material contained in it and its introduction against an individual who was no longer a member of or affiliated with the Communist Party in 1940 is an improper application of the Immigration Act of 1940 to such an individual, is unconstitutional, is an ex post facto law in violation of Article I, Section 2, of the Federal Constitution.

Presiding Inspector to Attorney King: Your objection is noted.

(Note by Presiding Inspector: Hearing at this point recessed for lunch. Exhibits loaned to respondent so that he may read them. Hearing continued following lunch. The following testimony was adduced after respondent was advised that he is still under oath and the penalty for perjury still applies.)

Presiding Inspector to Respondent:

Q. Do you understand that these articles, the first being an editorial and the second being a statement of the Central Committee of the Communist Party of the U. S. A., are being entered in evidence in your case as Exhibits 15 and 16? A. Yes.

Q. I invite your attention to "The Darrow Report", now Exhibit #15 in your case, particularly to Page 615 thereof whereon appears the following:

> "There is only one way to a planned economy and emancipation from the rule of monopoly capitalism. This is when the working class under the leadership of its Party forcibly overthrows capitalism and establishes the dictatorship of the proletariat. Only then can it proceed with the planned, economic, political, and cultural reconstruction of society. The toiling masses of this country can look to the example set by the Russian workers. From the Russian working class we learn that when the working class captures power, destroys the *bourgeois state machine* (italics supplied) drives out the bourgeoisie, then the revolutionary class, led by the Communist Party, not only itself develops tremendous revolutionary energy, but releases all the creative forces of the revolution which were hitherto suppressed. Therefore the road of the Communist Party in America is the only correct road to follow in the complete emancipation of the proletariat and all the oppressed and exploited from the bloody rule of American trusts and monopolies."

Do you have any comment to make with regard to the report and this excerpt in particular? A. This editorial was published in July, 1934 and I understand that all such editorials, documents, or declarations were declared obsolete by the Party later on. However, I do have some comments to make on this quotation. First of all, this does not advocate force and violence to overthrow the Government of the United States. On the contrary, it presupposes the existence of a government of the majority of the people and if the capitalist class resist the wishes of this government, the government will be forced to use stern measures, if necessary, force, to overthrow or abolish them and carry out its program of Socialism. Let me illustrate this from history. When the Southern slave owners resisted the intentions of the government of President Lincoln to abolish slavery, the government found it necessary to use force against the slave owners and to abolish slavery. By the dictatorship

of the proletariat, at least I understand it to mean the rule of the majority against the minority.

Q. With reference to Exhibit #16, the statement entitled "Unify the Forces of all Steel Workers for Aggressive Unionism", I invite your attention to Page 660 whereon appears the following:

> "Class enemies of workers 'indict' Communists for believing in, and working for, the overthrow of capitalism and its robbery and oppression of workers. Communists proudly plead guilty to this indictment."

I further invite your attention to Page 661, whereon appears the following:

> "Communists know and say that the Roosevelt Government is the government of the steel corporations, the auto companies, the big bankers and trusts. It is the government of the very biggest and most powerful capitalists."
>
> "Some workers say that this was true of Hoover, but not of Roosevelt. But there has not been any change in the government in the U. S. It remains as it was under Hoover—a government run by an executive committee of the capitalists. Congress is composed of the representatives of the capitalist class parties as it was under Hoover."

I further invite your attention to Page 662, whereon appears the following:

> "The South, that stronghold of the Roosevelt Administration, stands out pre-eminently as the scene of organized lynching of Negro workers and organized murder terror against Negro workers, sharecroppers and poor farmers. This is capitalist government in America. It is the government of the American capitalist class that commits the organized and ceaseless outrages against workers and exploited farmers, Negro and white, foreign and native born, men, women and children."

What comment do you have to make with regard to this statement of the Central Committee of the Communist

Party of the U. S. A., and particularly the excerpts that I have quoted? A. Mr. Inspector, in commenting on your first quotation from this exhibit, I want to read to you an other paragraph on the same page of this exhibit.

> "The Communists say that if higher wages for workers will wreck the capitalist robber system, then workers must fight all the harder to improve wages and working conditions. If victorious struggle for higher wages destroys capitalism, it simply proves again that the capitalist system is based on the robbery of the working class and is against their interests."

I am going to the next quotation on Page 61 of the same exhibit. There are two paragraphs here. Without reading these paragraphs again, I want to say that the estimate of the Communist Party in regard to the Roosevelt Government was not altogether correct. It seems that the Communist Party failed to foresee that Roosevelt would break away from that group of capitalists and fight them as he did, and because he fought them and took some of their profits away he was called later on by these same people, a Communist—

Q. Do you have any evidence to substantiate this particular statement? A. No, it is my statement.

> By Presiding Inspector: You may proceed.
>
> By Attorney King: Reference will be made in the brief to President Roosevelt having been called a Communist.

By Respondent (continuing his comment on Exhibit 16):

Generally speaking, some of these accusations have since been proven incorrect. It is plain that the authors of this statement were wrong in their estimation of President Roosevelt. Now, I am coming to the last of your quotations, Mr. Inspector, on Page 662 of Exhibit 16, and I want you to permit me to read further up before I come to the particular quotation.

> "Take a look at the list of killed and wounded, clubbed, gassed and jailed workers in Minneapolis, Toledo, San Francisco, in Southern California, in

Alabama, in Ambridge, in Weirton, in Cleveland, in New York, in the industrial districts of New Jersey, in Massachusetts—in practically every State and big industrial center in the country.

"These brutal attacks are made on workers' demanding the right to organize, asking for more food, for higher living conditions."

I know that the Department here has in its possession a photograph of mine which shows some of this brutality that I was reading to you and I would like very much the Inspector to produce that photograph and enter it as evidence of this.

(Hearing recessed at this point.)

(HEARING CONTINUED.)

Presiding Inspector to Respondent:

Q. Your request that any photographs in the possession of this Service be entered in evidence in your case is denied on the ground that in the judgment of this office it is not material to any of the issues in your case. Do you understand? A. Yes.

By Attorney King: I object to the suppression of evidence by the Government which is material to the respondent's case and particularly wish to call attention to the fact that this picture indicates the use of force and violence by representatives of the Government, and more particularly by the police, and if the Government persists in its refusal to furnish the respondent this evidence, I ask that all pictures in the possession of the Immigration and Naturalization Service be shown to us and any picture showing police violence against the respondent be marked for identification, in order that the court may at some future time, if it should become necessary, pass upon the relevancy and materiality of this evidence.

Presiding Inspector to Attorney King: Your further objection is overruled on the ground that any actio.. by police in the preservation of law and order

is irrelevant to the issues in this case and particularly as to the issue of whether the Communist Party or the Communist International advocates or teaches the overthrow by force and violence of the Government of the United States. In regard to the further request that any photographs regarding respondent in the possession of this Service be marked for identification for court purposes, this request is likewise denied. If these proceedings reach any court, such court may subpoena such of the records of this Service as the court deems necessary to arrive at a proper adjudication of the case.

By Attorney King: I object to the statement that "any action by police in the preservation of law and order is irrelevant to the issues in this case," in view of the fact that after his arrest the respondent was discharged and there is no showing that anything that the police did was in the maintenance of law and order but the indications are that what they did was an unlawful assault upon this respondent.

Presiding Inspector to Attorney King: This further objection is noted.

Presiding Inspector to Respondent:

Q. Do you have any further comment to make with regard to the last excerpts? A. No.

Q. With regard to your testimony that you gave at the hearing on October 15, 1946, the record does not disclose what position, if any, you held in the Communist Party of the United States from 1937 to 1939, when you dropped out. The last information furnished by you was that you were Secretary of the Greek Bureau of the Communist Party until part of 1937, which appears on Page 21 of the hearing. What positions did you hold in the Party thereafter? A. I had no other official position, except I was working as one of the staff members of the newspaper "Empros", at which I worked until this paper went out of existence which, I think, was in 1939.

Q. Do you recall that you testified that the "Empros" followed the Party line as interpreted by the Greek Bureau of the Communist Party of which Bureau you were Secretary until part of 1937? A. Yes.

Q. But you had no connection with the Greek Bureau of the Communist Party from 1937 to 1939 even though you were still connected with the "Empros" as an editor? A. I did have connection with the Greek Bureau but I wasn't the Secretary. I was just a member and worked on the paper. I did not hold office during that time.

Q. After your employment by the "Empros" ceased by reason of the going out of existence of that paper, you became employed by the "Greek-American Tribune", by which paper you are still employed? A. No, not immediately. The "Greek-American Tribune" was established in 1940 and that is when I began working for it as a member of the staff. I have been employed by the paper since then.

Q. What work did you do between the time the "Empros" went out of existence and the date on which your employment with the "Greek-American Tribune" began? A. Previous to beginning work with the "Greek-American Tribune", I was working for a newspaper called "Eleftheria". This paper was published only for a short period of time.

Q. Was this newspaper, "Eleftheria", published by any subdivision of the Communist Party or did it have any connection, direct or indirect, with the Communist Party of the U. S. A.? A. This newspaper, "Eleftheria", was not published by any subdivision of the Communist Party. It was published by a group of people not connected in any official capacity with the Communist Party.

Q. Did it have any connection, direct or indirect, with the Communist Party? A. The paper did not have any direct or indirect connection with the Communist Party. So far as the individuals on the paper were concerned, it is possible that they may have had.

Q. Was the newspaper, "Eleftheria", generally considered to be a "Leftist" paper? A. Generally considered a "Leftist" paper.

Q. Is the "Greek-American Tribune", by which you are now employed, connected directly or indirectly with the Communist Party of the U. S. A.? A. No.

Q. Are any of the editors or publishers of this paper, the "Greek-American Tribune", members of the Communist Party of the U. S. A.? A. It is not my business to know who are the members of the Communist Party.

Q. Do you know whether any of the publishers or editors of the "Greek-American Tribune" are members of the

Communist Party of the U. S. A., or have been members during the time that you were associated with the paper?

By Attorney King: Objected to as incompetent, irrelevant and immaterial.

Presiding Inspector to Attorney King: Objection noted.

Presiding Inspector to Respondent: Please answer the question.

A. (By Respondent): Because I consider this question to be irrelevant to the case, I decline to answer.

Q. You are informed that an unfavorable inference may be drawn from your declination to testify on this point. Do you understand? A. I do.

Q. Is it your statement that you are in no way at the present time affiliated with or a member of the Communist Party of the U. S. A.? A. Yes. I am not affiliated and I am not a member of the Communist Party of the U. S. A., at the present time.

Q. Is it further your statement that you have not been affiliated with or a member of the Communist Party of the U. S. A. since 1939 when you dropped membership? A. Yes.

Q. Is it further your statement that you, at the present time, still believe in the same principles that you held during the time that you were a member of the Communist Party of the U. S. A.? A. Yes.

Q. Do you recall that at your hearing on October 15, 1946 you testified that you had been a member of the Spartacus Club from 1933 to 1940 or 1941, as indicated on Page 16 of the record? A. Yes, I was a member of the Spartacus Club. Even then I was not sure as to when I ceased to be a member.

Q. There is information available to this office which indicates that the Spartacus Club was the "strong arm" branch of the Communist Party of the U. S. A., or functioned as a "strong arm" group for the Communist Party of the U. S. A., and comprised that group of persons who were most ready to carry out the policies of the Communist Party. What comment do you have to make with regard to this information?

By Attorney King: Objected to as being incompetent, irrelevant and immaterial and being so meaningless as to make it impossible to answer.

Presiding Inspector to Attorney King: Objection noted.

Presiding Inspector to Respondent: Please answer the question.

A. (By Respondent): My answer is, that the Greek Workers Club, Spartacus, was just an educational club composed of law-abiding and peaceful Greek workers and intellectuals. As far as I know and I had been a member of that club for many years, nobody used these club members as a club for "strong arm" purposes. That is why I think also that this whole thing is irrelevant to the case.

Q. Do you recall that in your testimony on October 15, 1946 you stated that you had been a member of the International Workers Order since about 1935? A. I do remember that.

Q. Information available to this office indicates that the International Workers Order is a Communist dominated organization, specifically kept from any direct connection with the Communist Party in order that more workers should come into it by reason of its low cost insurance and thereby become acquainted with the Communist Party. This information further indicates that Robert Wiener was at the same time President of the International Workers Order and Treasurer of the Communist Party of the U. S. A., from about 1933 to 1940. What comment do you have to make to this?

By Attorney King: Objected to as incompetent, irrelevant and immaterial and whether or not the International Workers Order was a Communist dominated organization, of which I have no knowledge, this would in no way affect the situation of this respondent—

Presiding Inspector to Attorney King: Please exclude argument from the record and state only the objection succinctly. It is desired that argument be placed in your brief instead.

By Attorney King: I object to being prevented from giving the reasons for my objection.

Presiding Inspector to Attorney King: I presume that the basis for this further objection is the same as that stated by you in connection with the first objection made in this case yesterday and it is overruled on the same grounds as then stated.

Presiding Inspector to Respondent: Please answer the question.

A. (By Respondent): The only comment I want to make is that the I. W. O. is not a Communist dominated organization. It is a democratic organization that all people of all political views can join and belong. Sometimes it happens that Communists have official positions in the I. W. O., elected by the members.

Q. Do you recall in your testimony on October 15, 1946, testifying that you paid dues regularly in the Communist Party of the U. S. A. during the period that you were a member? A. Yes.

Q. I invite your attention to Page 9 of the "Constitution and By-Laws of the Communist Party of the U. S. A.," now Exhibit #4 in your case, whereon appears the following:

> "Every four months, all members of the Party shall pay an assessment equal to the average dues payment per month for the previous four months, for an International Solidarity Fund. This money shall be used by the National Committee exclusively to aid our brother Communist Parties in other countries suffering from fascist and military reaction."

During the period of your membership did you pay such assessment? A. I don't remember if I ever paid such an assessment and if I did pay it I don't think there is anything wrong with that.

Q. At the time that you joined the Communist Party, what pledge or other statement were you required to make? A. I don't think I ever made any pledge in joining the Party. The only time that they worked out a pledge, I think it was in 1938—I don't recall—I think it was in 1938.

Q. Your wife's maiden name was Sarah Topol. Did she ever use the name Albaum? A. Yes, her father changed his name when he took his citizenship, from Topol to Albaum.

Q. Do you recall that at your hearing on October 15, 1946 a form was entered in evidence in your case as Exhibit #2, which indicated that this Service could not verify your arrival in the United States in 1916 as stated by you? A. I do.

Q. I now show you a Certificate of Admission of Alien, Form I-404-A, which shows the arrival at New York of a

Panagiotis Hadjielias on March 7, 1916 on the SS "Vasilefs Constantinos", which shows that he was then, age, 13, and was accompanied by father, Georgios, age, 44. Does this appear to be the record of your entry into the United States?

(Counsel and Respondent examine Form I-404-A.)

A. Yes.

Q. This document was stipulated as part of Exhibit #2 and it is now so marked. Do you understand? A. Yes.

Q. Is there anything further that you wish to say to be considered in making a determination of your case? A. If you recall, yesterday you read from Page 36 of the "Program of the Communist International," now Exhibit 5, the following:

> "The conquest of power by the proletariat does not mean peacefully 'capturing' the ready-made bourgeois state machinery by means of a parliamentary majority."

If you just read the next sentence you will see that this does not contradict but confirms what I said before. The next sentence reads:

> "The bourgeoisie resorts to every means of violence and terror to safeguard and strengthen its predatory property and its political domination."

To my mind, this is the explanation. That is what the first sentence is talking about. It is not that the workers and progressive people will start any violence but the reactionary forces of big capital, generally speaking, throughout the world will start the violence and terror. It explains still further that that is what it means:

> "Like the feudal nobility of the past, the bourgeoisie cannot abandon its historical position to the new class without a desperate and frantic struggle."

And I said that the violence of the bourgeoisie can be suppressed only by the stern measures of the proletariat and its allies who are in power—

Q. If the Communist program concedes that the conquest of power by the proletariat does not mean taking over the Government by means of a parliamentary majority, what can it mean other than taking it by force and violence? A.

I cannot determine the methods of taking over the Government now.

Q. Your answer does not seem to be exactly in point to my question. My question was meant to ask, what alternative is there to taking control of the State machinery by means of a parliamentary majority other than by force and violence? A. It seems to me that this is a warning and nothing else, that even if the people will win a majority through parliamentary procedure the ruling class will not give over power to the people but will use force against them and keep the State power in their hands by force and violence.

Q. But does not this statement mean in effect that the taking over of the State machinery must be accomplished by means other than a parliamentary majority? A. Well, in Germany, Hitler took over power through parliamentary means and he used the State against the majority of the German people with force and violence. If I remember well, the Communist Party of Germany at that time called upon the Social Democrats who had a great following among the German masses to unite against Hitler but they refused and Hitler came to power and we had to go through a war and lose 300,000 American lives in order to break down the violence of Hitler. Now, we had to go through that in Germany but we don't have to do the same thing in the United States because here, I repeat as I repeated before so many times, we still have the Bill of Rights and since we do have that there is no reason to use the same methods as were used against Hitler, so it seems to me that the "Program of the Communist International" refers to situations like that and not to the situation as we have today in the United States. There is no place in any document, at least as far as I know, that it says specifically that we are going to use force and violence to overthrow the Government of the United States.

Q. Were you through with the statement that you were making? A. I want to add a little bit more. That means that the reactionary property owning class will start the violence and will very likely start it, and it means that the majority of the people with the working class in a leading position in the political life of the country will suppress them, if necessary, by violence through the armed forces of our country under the Government of the American

people. It speaks of the violence of the proletariat only in connection with the use of the Government power to suppress an insurrection of the wealthy classes.

Presiding Inspector to Attorney King:

Q. Do you wish to ask respondent any questions? A. Yes.

(Hearing recessed.)

(HEARING RESUMED.)

Attorney King to Respondent:

Q. When you joined the Communist Party, was there any indication, to your knowledge, that that Party believed in, advised, advocated or taught the violent overthrow of the Government of the United States or of all forms of law? A. No, the Party did not advocate or teach or advise, or believe in any violent overthrow of the Government of the United States, and it did not teach or advocate or advise or believe in the overthrow of all forms of law.

Q. When you joined the Communist Party, did you believe in, or advise, or advocate, or teach the violent overthrow of the Government of the United States? A. No.

Q. When you joined the Communist Party, did it begin to tell you what it believed and what it advised and what it advocated and taught about such matters? A. I was instructed as to what the principles and teachings of the Communist Party were when I joined the Party.

Q. Did the Communist Party teach you anything of any sort on the subject of the violent overthrow of the United States Government? A. Yes.

Q. Tell us what the Communist Party taught you on that subject. A. I was taught that many people tried to make it appear that the Communist Party advocates the overthrow of the United States Government but that such people were misrepresenting the facts. I was taught that in past American history there has been one example where an attempt was made to overthrow the United States Government and that the decision of the Communists in that

case was to go to war to fight against the overthrow of the United States Government. I was told, for instance, to read a book called "The American Civil War," by Karl Marx and Frederick Engels, and I was told that I should read and study especially, the letter of Karl Marx to Abraham Lincoln pledging him the support of the Communists throughout the world to defend the United States Government. In that case it was the American Civil War, the only time where a real test was made of where people stand on this question.

Q. Did the Communists follow the advice of Karl Marx and did the Communists actually defend the United States Government with arms in hand? A. Yes.

Q. Well, could you tell me just who did? A. I can give you a few names of leaders of the Communists in the United States who joined the United States Army—

(Inspector's Note: Discussion held between attorney and Inspector as to the relevancy of this material being covered in cross-examination. It was ascertained that this line of questioning will become current to what the Presiding Inspector considers the issues in the case shortly, so cross-examination permitted to continue without further interruption.)

By Respondent (continuing): —and were commissioned by President Abraham Lincoln as officers in the United States Army. The most prominent of them was Colonel Joseph Weydemeyer who was the Commander of the American Military Forces that occupied St. Louis during the civil war.

Attorney King to Respondent:

Q. Who was Joseph Weydemeyer before he became a Colonel in the United States Army? A. He was the foremost leader of the Communists in the United States. In the Second World War, similarly, the Communists fought heroically. At this point, permit me to read a statement bearing on this question, which was part of the testimony given by Major General Clayton Bissell, Head of G-2, March 12, 1945, before the House Military Affairs Committee with reference to the record of ten Army officers who were accused of being Communists:

"These officers have shown by their deeds that they are upholding the United States by force and violence."

Q. Did the Communist Party, which I understood you to say was called the Workers Party of America, advocate or teach you or anybody else that you know of, anything in favor of the violent overthrow of the United States Government during the time of your membership? A. No, it did not. It taught me and everybody that I know of that the Communist Party does not advocate the violent overthrow of the United States Government.

Q. How did the Communist Party teach you changes were to be effected? A. We were taught to defend the constitutional rights of the people and, as much as possible, to win reforms and changes, no matter how drastic they might be, by peaceful and constitutional means.

Q. Is that in accord with the general traditions of the Communist movement, taking it on a world scale and over a whole century of time, going back as far as the Communist Manifesto that was written in 1848? A. Yes, it is in accord with all of the traditions of the Communist movement.

Q. Does this in any way contradict the idea that there is usually much force and violence in history? A. No, it does not contradict it.

Q. Does the existence of the Communist Party and its thriving as a Party in the political life of the country add to the probability of force and violence? A. No, on the contrary. The force and violence existed long before there was any Communist Party and the effect of the Communist Party is to bring it to an end by the victory of the people against those who make the violence.

Q. When did the American Communists say that the United States and England and Russia ought to get together and oppose Germany? A. The Communist Party of the United States, and I personally, said that as long ago as 1935; I think that also the Communist International said the same thing.

Q. That is, you and all the Communists said that the United States and England and France ought to cooperate with the Soviet Union against Germany eight years before Stalin approved the dissolution of the Communist International? A. Yes.

Q. When the Communists took that position, were they doing this merely in order to help Soviet Russia? A. No. In 1935 the Communists demanded that the United States, England and France and other countries should stand together with Russia against Italy in defending Ethiopia, and then again in 1936 the Communists all over the world demanded that these nations act together to defend Spain against Hitler and Mussolini.

Q. Carry that on to more recent times. A. In 1938 all the Communists in the world demanded that the democratic nations, including Soviet Russia, get together to defend Czechoslovakia from Hitler Germany. That was not on behalf of Soviet Russia but on behalf of the capitalist republic.

Q. What about later on? A. In 1939 up until the time when England and France refused to cooperate, all of the Communists, including the Russian Communists, were demanding that these same countries get together to fight against Germany in defense of Poland.

Q. You have said that the Communists do not seek to have violence in the transition of society from capitalism to socialism? A. That's correct. Other people try to turn it into violent channels. That is, violence is not the Communist proposal but the reactionaries force the political struggle into the channel of violent conflict. Let me make this clear by reading an extract from the minutes of the German Reichstag Meeting at Berlin on September 17, 1878. That was the time when this whole question of violence was being argued. I am going to read an English translation of a speech made by the famous German Communist or Socialist leader, August Bebel, reprinted in a book by Marx, in German, called "Briefe an Bebel Etc." Here is what Bebel said about violence:

> "A historic development can remain peaceful only as long as no violent hindrance is placed in its way on the part of the holders of social power of the time. If, for example, in England or the United States, the working class were to win the majority in Parliament or in Congress, then they might in a legal way remove the laws and institutions standing in the way of their development although, of course, only in so far as the social development might indicate. Then, however, the peaceful movement might

be transformed into a violent one through the resistance of those interested in the old condition of things. In that case, they would be (as in the American Civil War and the French Revolution) struck down by violence as rebels against the lawful power."

I want to explain that this quotation comes from Marx-Engels Institute, Moscow, 1933, Page 516.

Q. On Page 84 of the "Program of the Communist International," it speaks of converting imperialist war into civil war and defeating your own imperialist government, and defending the Soviet Union and the colonies. What do you understand that to mean? A. That is very simple. Not only the Communists but also the United States Government and the British Government and all of the patriotic Frenchmen called for the conversion of the imperialist war of Germany into civil war and the overthrow of Hitler. All of us, the Communists and the Generals of the United States Army and the British Army, called upon all patriots of Europe to defeat their own imperialist governments in the German coalition and all of them called for the defense of the Soviet Union. That was correct and, of course, it was correct also to defend the colonies.

Q. Does that apply only to Germany and Japan? A. Yes, it did in this war because that is the imperialist side of this war. It was not an imperialist war on the American side of the war.

Q. What do you say to the fact that people claim that the Allied Nations were also conducting an imperialist war? A. You have to make a distinction between what Communists say and what some other people may say. The Communists said it was not an imperialist war on the part of America and her Allies. It was an imperialist war on the part of Germany, Italy and Japan.

Q. Do the Communists make a distinction between an imperialist war and a war in the spirit of American democracy? A. That's correct.

Q. Would you say from the "Program of the Communist International" that the Communist Party wanted to introduce the element of dictatorship into American life; that is, would you say that the Communists would like America to be a dictatorship of some kind in the place of democracy?

A. No, I would not say anything of the kind. The Communists do not propose to destroy American democracy and do not propose to decrease the amount of democracy in this country, but, on the contrary, to increase it. The Communists do not want to introduce dictatorship in the place of democracy. On the contrary, the Communists want to do away with dictatorship altogether. All you have to do is to read the entire program of the Communists. Then you will see that the Communists do not want to introduce dictatorship in the United States but to wipe out all of the dictatorship that there is here. You will see that the program you have there of the Communist International, on Page 19 it says:

> "The dictatorship of finance capital is perishing to give way to the dictatorship of the proletariat."

You see, the position it takes is that there is a dictatorship of finance capital. In another place it speaks of "dictatorship of finance capital plutocracy." Now, somebody might say that there is no such dictatorship but anyone who knows anything about American history knows that there is such a dictatorship. Way back one-half century ago, William J. Bryan said:

> "Who crucified man upon this cross of gold? Who pressed this crown of thorns upon the brow of labor!"

And we know that the statute books are full of anti-trust laws, and all sorts of fights are being made to get rid of exactly that dictatorship of finance capital plutocracy. The Communists learned from American history and from history of the world that this can only be done by putting extraordinary powers into the hands of the Federal Government, supported by the majority of the people in power in the Government to crush out and smash that dictatorship of the finance capital plutocracy. During the war, American soldiers had to take one of the bosses of the Montgomery-Ward Company out of the plant, carrying him out by his legs and arms. It may be that a whole lot more of the bosses of the trusts may have to be taken out of their offices by American G.I.'s but if a political party believes that is likely to happen, that does not mean that it is an un-American political party.

Examination of Peter Harisiades—By Carol King

Q. Does the United States Constitution stand against such forceful measures even though they are taken by the Government itself? A. No, the United States did more than that in the Reconstruction Period after the Civil War that was pretty rough, and a lot of people tried to say it was not constitutional.

Q. About the manifesto and resolutions contained in Exhibit 12, did you consider them to be expressions of your own point of view? A. I cannot now remember what I thought in 1934.

Q. Do they represent your present opinions today? A. They do not represent my opinions in regard to the situation of today because the situation has changed since then very much.

Q. On Page 20 of Exhibit 12 the matter of the economic crisis of 1929 is discussed. Did that express the point of view of the Communists and of yourself at that time? A. Yes. In regard to the situation at that time in 1934 it was certainly true that, as it says here, "The crisis of the capitalist system" was "becoming more and more a catastrophe for the workers and toiling masses," and the rest of what it says about it.

Q. On Pages 23 and 24 of Exhibit 12, the following appears:

> "It is true that all struggles for daily bread, for milk for children, against evictions, for unemployment relief and insurance, for wage increases, for the right to organize and strike, etc., are directly connected up with the question of revolution."

Then the next sentence reads:

> "Those who are against the revolution, who want to maintain the capitalist system, are prepared to sacrifice these struggles of the workers in order to help the capitalists preserve their profits."

What have you to say to that? A. I think that is a good place to begin in order to understand the whole situation at that time in 1934. Most of those who were in control of the big industries and finances were ready to sacrifice the people's bread, milk for children, and wanted to evict people from their homes by millions when they were un-

employed and could not pay their rent through no fault of their own. Those industrialists were fighting against having any kind of system of unemployment relief and social insurance. You will remember they called it "the dole" and said that any kind of unemployment relief was un-American. What the Communist Party said in this place was perfectly true and it had to say that. You will remember that a big fight was made all over the country for unemployment relief and to adopt a system of unemployment insurance and to protect the rights of labor to organize and bargain collectively. Everybody said at that time that the Communist Party was in the lead of that fight and it really was leading that fight. The biggest employers fought against every concession to labor. They had only one idea about how to meet the economic crisis and that was "to help the capitalists preserve their profits," just as that manifesto says there.

Q. You will notice that on Page 24, Exhibit 12 says:

> "Only those can courageously lead and stubbornly organize the fight for the immediate interests of the toiling masses, who know that these things must be won even though it means the destruction of capitalist profits, and who draw the necessary conclusion that the workers and farmers must consciously prepare to overthrow capitalism."

What do you have to say to that? A. Well, it turned out somewhat different. Mr. Roosevelt, though he was certainly not a revolutionist, was clear enough in his mind to see some of the necessities of the time and it was because of this that many big business men and their representatives denounced Mr. Roosevelt as a Communist.

Q. In order to clarify the question of the attitude of the Party toward the reforms of the New Deal, what have you to say about the following passage on Page 21 of Exhibit 12:

> "Under Roosevelt and the New Deal policies the public treasury has been turned into a huge trough where the capitalists eat their fill."

Does that seem to conflict with anything that you have said about the attitude of the Communist Party to the New Deal? A. No, it does not conflict with anything I have said

if you take into consideration the time. It seems to me that that sentence that you have just read was perfectly true up to the time of 1934. Later on there was a big change but the change came, if you remember, only after millions of people had complained about the feeding at the public treasury while there was no real unemployment relief or protection of labor. It seems to me now that the protest was necessary before the New Deal offered any profection to the people.

Q. The 1934 Cleveland Manifesto on Page 24 of Exhibit 12 said:

> "The program of the revolutionary solution of the crisis is no blind experiment. The working class is already in power in the biggest country in the world, and it has already proved the great superiority of the Socialist system. While the crisis has engulfed the capitalist countries—at the same time in the Soviet Union, where the workers rule through their Soviet power, a new Socialist society is being victoriously built.
>
> "The Russian working class, from its own resources and its Socialist system, restored the national economy which had been shattered by six years of imperialist war and intervention."

Will you tell us whether that means that the Communist Party of the United States is trying, or has tried, or is advocating, or that it believes in or teaches the overthrow of the United States Government by force and violence? A. No, it does not. In fact, it says something quite different. You can see right here the explanation: The Russian workers restored the shattered national economy. Anyone who wants to understand this ought to read the whole of it. It says that the workers are already in power there and already have proven the superiority of Socialist methods and it tells you how they did it, by restoring the national economy which had been shattered by many years of war. The document says that that is why the "program of the revolutionary solution of the crisis is no blind experiment." Of course, it also says that the condition for doing this has to be that the workers are already in power and it certainly means that the restoring of the national economy was the result of the workers being in power with their revolutionary government and the Socialist system.

Examination of Peter Harisiades—By Presiding Inspector

Q. Would the Communist Party want to rule out some individuals or classes of voters of today from the right to vote? A. No. Of course, that would be for the people to say but the Communist Party does not teach that anybody should be deprived of the right to vote.

Q. Would you think it possible that the owners of the means of production would be deprived of the right to vote or hold office? A. Yes, it would be possible for the American people to do almost anything but the Communist Party does not call for that to be done necessarily.

Q. If it was done, wouldn't that be a violation of the Constitution? A. No, I don't think so.

Q. Does the Communist Party want to suppress all of the other political parties? A. No, on the contrary it demands that all political parties except Nazi political parties or Fascist political parties shall be absolutely free to operate.

Q. Why do you say except the Nazis and Fascists? A. For the same reason that all of the governments, of the United States and her Allies, for Europe and Asia, guarantee the rights of all political parties except the Nazis and Fascists.

(Note by Presiding Inspector: Entire cross-examination conducted from prepared notes.)

Presiding Inspector to Respondent:

Q. With regard to your testimony that on your joining the Communist Party you were taught, would you state whether you received any formal course in Marxian doctrine? A. Yes. If I can remember well, I went to a night school for a couple of months.

Q. By whom was this school conducted? A. The school was conducted by the Party in Boston, Massachusetts.

Q. At the time that the "Program of the Communist International" was adopted by the Sixth World Congress on September 1, 1928 or thereafter, did this document receive serious study and discussion in the Communist unit of which you were a member? A. I think it did although I cannot recollect completely in what way we studied this document and in what particular year. I feel that it did come up for discussion.

Examination of Peter Harisiades—By Presiding Inspector

Q. Then, during many years of your membership in the Communist Party you were acquainted with this "Program of the Communist International," now Exhibit #5 in your case. Is that correct? A. Correct.

Q. When the manifesto and principal resolutions adopted by the Eighth Convention in 1934, which are contained in Exhibit #12, were promulgated you were familiar with their contents. Is that correct? A. Correct. The only qualification I want to make with regard to both those documents is that I have not read them in recent years, especially the "Program of the Communist International." I don't think I read it at least for the last eight or nine years.

Q. At the time that the manifesto and principal resolutions were adopted by the Eighth Convention of the Communist Party of the U. S. A., in April, 1934 you were in conformity with the principles and policies of the Party. Is that correct? A. Yes, at the time.

Q. Is it correct that Karl Marx's doctrine is the fundamental source of the teachings and beliefs of both the Communists and the Socialists and both claim to be properly interpreting the Marxian theories? A. I don't think that is correct.

Q. I invite your attention to Page 9 of the "Program of the Communist International," where it discusses the First International led by Marx as having laid the ideological foundation for the international proletarian struggle for Socialism, and the Second International as having prepared the ground for the expansion of the labor movement among the masses, and I ask you whether the Second International was composed both of Socialists and Communists and did it break up over the differences of opinion between them? A. It is correct that Marx laid the basis of the Second International and for a certain period it was the only international. However, because of sharp differences, especially on the question of the First World War, many of the Socialist Party broke away from the Second International and they formed the Communist Parties in their respective countries.

Presiding Inspector to Attorney King:

Q. Do you wish to ask respondent any further questions? A. No, but I should like to, at this point, offer in evidence two character affidavits.

Examination of Peter Harisiades—By Presiding Inspector

Presiding Inspector to Respondent:

Q. These character affidavits, the first dated May 3, 1946 and signed by Demetrius Christopher, and the second dated May 3, 1946 and signed by James George Politis, are entered in evidence in your case as Exhibits 17A and B, respectively. Do you understand? A. Yes.

Q. Is there any further evidence or comment that you wish to submit to be considered in making a determination in your case, in addition to what is already in the record? A. No.

Q. Is there anything you wish to say as to why you should not be deported from the United States? A. I have only this to say, that I have a family here with two children. I am established here. My deportation would ruin not only myself but my family. Secondly, I have never committed any crime and I was never sentenced or jailed for any political crime. The charge that is brought against me is contrary to the letter and spirit of the Constitution of the United States.

Q. Attorney King will be furnished a copy of the proposed findings in your case when completed and she will be given ten days time within which to take exceptions and to submit a brief and submit argument in support of objections, in writing, if desired. Do you understand? A. Yes.

Presiding Inspector to Attorney King:

Q. You have already been furnished with a copy of the record of hearing of October 15, 1946. Do you desire the loan of a copy of the rest of the hearing? A. I do.

Presiding Inspector to Respondent:

Q. You are warned that the Act of March 4, 1929, as amended, provides that if you leave the United States under an order of deportation and you thereafter enter or attempt to enter the United States without first obtaining the permission of the Attorney General, you will be guilty of a felony and be liable to imprisonment for not more than two years and a fine of not more than $1,000. Do you fully understand this? A. I do.

Q. You are further warned that if you are ordered deported, you may obtain the permission of the Attorney General to return to the United States only after one year

from the date of your deportation and you must have such permission before you begin any journey to the United States. However, you may apply for such permission at any time after deportation. Do you fully understand this? A. Yes.

Q. You are further warned that the deportation charges against you are based upon the Act approved October 16, 1918, as amended, which provides that an alien who after having been arrested and deported pursuant to the Act thereafter returns to or enters the United States or attempts to return to or enter the United States, shall be deemed guilty of a felony and upon conviction thereof, shall be imprisoned for not more than five years, and after release from imprisonment shall then be arrested and deported from the United States. Do you fully understand this? A. Yes.

Q. You are further warned that if a warrant is issued for your deportation and you thereafter pay your own way out of the country as a passenger, you are considered nonetheless to have been deported. Do you understand? A. Yes.

Q. Have you understood all of the questions put to you at your hearings? A. Yes.

Q. Are you presently at large in these proceedings upon your own recognizance? A. Yes.

Q. You are being continued at large upon your own recognizance pending final completion of your proceedings. Do you promise to advise this office of your address and appear here whenever you are requested to do so? A. Yes.

DESCRIPTION: 5'3"; 158 lbs.; brown hair (graying at temples); brown eyes; ruddy complexion; scar at left corner of upper lip.

HEARING CLOSED

(Respondent's release on own recognizance continued.)

R 1/31/47
T 2/13/47

I CERTIFY the foregoing to be a true and correct transcript of my shorthand notes of the testimony taken by me in the above case.

VIVIAN H. GARNETT,
Vivian H. Garnett,
Stenographer.

EXHIBITS OF ORIGINAL HEARINGS, SUBMITTED WITH RETURN

Exhibit 1 of 1946-1947 Hearings

WARRANT—ARREST OF ALIEN

UNITED STATES OF AMERICA
DEPARTMENT OF LABOR
WASHINGTON

530/281
No. 55696/820

To COMMISSIONER OF IMMIGRATION, Boston, Mass.,
Or to any Immigrant Inspector in the service of the United States.

WHEREAS, from evidence submitted to me, it appears that the alien PETER HAGELAS or PANOJOTIS HEGELIAS who landed at the port of New York, N. Y., ex SS "King Constantine," on or about the 1st day of July, 1916, has been found in the United States in violation of the Act of October 16, 1918, as amended by the Act of June 5, 1920, for the following among other reasons:

That he is a member of or affiliated with an organization, association, society, or group that believes in, advises, advocates, or teaches the overthrow by force or violence of the Government of the United States or of all forms of law.

I, W. N. SMELSER, Assistant to the Secretary of Labor, by virtue of the power and authority vested in me by the laws of the United States, do hereby command you to take into custody the said alien and grant him a hearing ..... to enable him to show cause why he should not be deported in conformity with law.

The expenses of detention hereunder, if necessary, are authorized, payable from the appropriation "Expenses of Regulating Immigration, 1930." Pending further proceedings the alien may be released from custody under bond in the sum of $1000.

For so doing, this shall be your sufficient warrant.
Witness my hand and seal this 12th day of April, 1930.

W. N. SMELSER,
Assistant to the Secretary of Labor.

REVERSE SIDE OF WARRANT OF ARREST

I have furnished the alien named in this warrant, with a copy of the warrant, fully advised him of the cause of his arrest, informed him of his right to representation by counsel at the hearing to be held under the warrant and of the amount of bail under which he may be released from custody.

May 2, 1946
Date

s/ GROVER D. BUSHMAN
Name

Exhibit 2 of 1946-1947 Hearings

APPLICATION FOR VERIFICATION OF ARRIVAL, ETC.

(Omitted pursuant to Stipulation printed infra herein.)

Exhibit 3 of 1946-1947 Hearings

NEW YORK CITY POLICE STATEMENT OF NO RECORD FOR PETER HARISIADES

(Omitted pursuant to Stipulation printed infra herein.)

Exhibit 4 of 1946-1947 Hearings

PHOTOSTATIC COPY OF THE CONSTITUTION AND BY-LAWS OF THE COMMUNIST PARTY OF THE UNITED STATES OF AMERICA PUBLISHED BY WORKERS LIBRARY PUBLISHERS INC. NEW YORK, AUGUST 1938, ETC.

(Omitted pursuant to Stipulation printed infra herein.)

Exhibit 5 of 1946-1947 Hearings

PHOTOSTATIC COPY OF PROGRAM OF THE COMMUNIST INTERNATIONAL (TOGETHER WITH ITS CONSTITUTION), ETC.

(Omitted pursuant to Stipulation printed infra herein.)

Exhibit 6 of 1946-1947 Hearings

Police Headquarters,
New Bedford, Mass.

March 6, 1930

3:15 P.M.

STATEMENT OF PETER HAGELIAS OR PANAGIOTIS HAGELIAS

Before Inspector in Charge, John G. Hagberg.

Q. How old are you? 28

What month day and year were you born? January 1901, I don't know the day.

Where were you born? Isle of Samos, Greece.

When did you come to the United States? 1916 or 1917.

Did you come as a passenger or as a member of the crew? As a passenger.

On what steamship did you come to the United States? Steamship King Constandine.

At what port did you land? New York.

Citizen of what country are you? A. Of Greece.

Do you in anyway claim citizenship in the United States? No, I have my first paper which I took at Canton, Ohio.

When did you take that first paper? 1922 or 1923.

In what court did you take that paper? I got it in the post office at Canton.

Are you an Anarchist? I am not an anarchist.

Do you believe in anarchy? I do not believe in anarchy.

Are you a socialist? I am not a socialist.

Do you believe in Socialism? I do believe in socialism.

Do you believe in the Soviet Government? Yes. You ask me if I am a socialist I will say I am not, I am a Communist.

Do you believe in the right wing or the left wing of the Socialist Party? There is no such thing today in the Socialist Party. The Socialist Party represents the right wing, the Communist Party support the left wing movement.

Are you a member of the Communist Party? Yes.

Are you a member in good standing? Yes.

Are you an office-holder in the Communist Party? I am an Office Holder in the Communist Party.

What office do you hold in the Communist Party? I am a section organizer of the Communist Party.

Out of what headquarters do you work? The headquarters for this section is in New Bedford, William Street and I work from there.

Department of Justice Record Annexed to the Return

Exhibit 6 of 1946-1947 Hearings

How long have you been working as an organizer in this section? I have been working in this section for 10 or 11 months.

Where are your division headquarters? The headquarters are at Boston for the party.

What does the Communist Party stand for? The Communist Party is a political party. The Communist Party is a working-class party, with the purpose to better conditions for the workers. The Communist Party is composed of workers and for the workers.

Do you believe in the present form we have here in the United States? The present party now in power is the Republican Party. The party in power today represents the interest of the capitalist class or the ruling class today. We as Communists are not in favor of such a party.—I do not believe in the government of the United States as it is constituted today?

Do you believe in the overthrow of the present government of the United States? Our purpose is to overthrow the present form of government and establish a worker's government.

Do you believe in force or violence or destruction of government? We do not believe in violence. We believe in establishing a government by the organized working class. We do not believe in violence only by organizing the working class into the trade unions by building up their political power; that is the Communist Party. Only then will we be able to take the power away from the capitalist.

What kind of work do you do? I have been a machinist-helper in railroad yards. I have later worked as a machinist, for the past two years I have worked as a waiter.

Have you any near relatives in the United States? I have a brother-in-law and sister in Akron, Ohio.

What is his name and address? His name is Costa Kakos; I have not his address. Have not heard from him for about three years. He works in a rubber factory and not a Communist.

(Signed) PETER HAGELIAS

Sworn to before me this
6th day of March, 1930

(S) JOHN G. HAGBERG,
Inspector in Charge.

WITNESS to signature

(S) JOHN G. HAGBERG.
SAMUEL D. McLEOD

Exhibit 7 of 1946-1947 Hearings

MARRIAGE CERTIFICATE OF PETER HAGELIAS

(Omitted pursuant to Stipulation printed infra herein.)

Exhibit 8 of 1946-1947 Hearings

BIRTH CERTIFICATE OF IRENE HARRISON HAGELIAS

(Omitted pursuant to Stipulation printed infra herein.)

Exhibit 9 of 1946-1947 Hearings

BIRTH CERTIFICATE OF GEORGE HARRISON HAGELIAS

(Omitted pursuant to Stipulation printed infra herein.)

Exhibit 10 of 1946-1947 Hearings

PHOTOSTATIC COPY OF "THE COMMUNIST", VOLUME XIII, MAY, 1934, NO. 5, PAGES 427 THROUGH 429, ETC.

(Omitted pursuant to Stipulation printed infra herein.)

Exhibit 11 of 1946-1947 Hearings

PHOTOSTATIC COPY OF "THE COMMUNIST", FEBRUARY 1934 EDITION, PAGES 131 TO 144

(Omitted pursuant to Stipulation printed infra herein.)

Exhibit 12 of 1946-1947 Hearings

PHOTOSTATIC COPY OF THE WAY OUT, A PROGRAM FOR AMERICAN LABOR WITH INTRODUCTION BY M. J. OLGIN AND MANIFESTO AND PRINCIPAL RESOLUTIONS ADOPTED BY THE EIGHTH CONVENTION OF THE COMMUNIST PARTY OF THE U. S. A.

(Omitted pursuant to Stipulation printed infra herein.)

Exhibit 13 of 1946-1947 Hearings

[Letterhead of]

CAROL KING
220 Broadway
New York City 7
COrtlandt 7-3318

March 20, 1947

Immigration and Naturalization Service
70 Columbus Avenue
New York 23, N. Y.

RE MR. PETER HARISIADES

Gentlemen:

This will merely serve to inform you, that I have been unable to secure the Report to the Emergency National Convention of the Communist Party of November 16, 1940. This was stipulated to be introduced in evidence as exhibit 13, if I secured it.

Yours respectfully,

CAROL KING

CK:CD

ORIGINAL FINDINGS SUBMIITED WITH RETURN

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service

New York No.
99183/146

Central Office No.
A-5300756
(55696/820)

Opinion of the Presiding Inspector

In re: PETER HARISIADES, also known as PANAGIOTIS HATZILIAS; PETE HAGELIAS; PETE HARRISON

Since in this case there is a question as to the validity of the warrant of arrest upon which these deportation proceedings are based, this question is being first discussed. The warrant proceedings have been conducted in October, 1946 and in January, 1947 under a warrant of arrest dated April 12, 1930 (Exhibit #1). This warrant was issued in 1930 upon the basis of a sworn statement then made by respondent, but was not served upon him until May 2, 1946 because his whereabouts were unknown to this Service from 1930 until recently (pp. 5 to 6 and notation on reverse of warrant, Exhibit #1).

This 1930 warrant of arrest charges respondent with being in the United States in violation of the Act of October 16, 1918, as amended by the Act of June 5, 1920 (8 U. S. C. 137), on the ground of present membership in, or affiliation with, an organization, association, society, or group that believes in, advises, advocates, or teaches the overthrow by force or violence of the Government of the United States or of all forms of law (Ex. #1). Under the version of this statute which was in force in 1930, present belief, or present membership, or present affiliation was required to sustain deportation; past belief, past membership, or past affiliation being insufficient (*Kessler* v. *Strecker*, 307 U. S. 22). Section 2 of the statute in question was further amended by the Act of June 28, 1940 so as to provide for the deportation of an alien on the basis of past belief, or past membership, or past affiliation, at

time of entry to the United States or at any time thereafter, in any one of the classes of aliens proscribed in Section 1 of the statute, without time limitation as to the period of such belief, membership, or affiliation. At all times the statute under discussion has provided for the deportation of the classes proscribed therein without time limitation as to the length of the alien's residence in the United States.

Since the facts (i.e., membership or affiliation in 1930) charged in the warrant presently constitute grounds for deportation, it does not appear that the warrant has been invalidated by the 1940 amendment to the statute, despite the fact that respondent's uncontroverted testimony establishes, as hereinafter discussed, that his association with the organizations, which the Government contends are within the classes proscribed by the statute, ceased in 1939, seven years prior to the date upon which the warrant was served upon respondent (*Guiney* v. *Bonham*, C. C. A. 9, 1919, 261 F. 582; *U. S. ex rel Boric* v. *Marshall*, D. C. Pa., 1933, appeal dismissed C. C. A., 1933, 67 F. 2d, 1020, certiorari dismissed 1935, 54 S. Ct. 371).

I. Discussion of the Evidence—as to Deportability

Respondent is a native and citizen of Greece, forty-three years of age (pp. 7 to 10). He testified that his sole entry to the United States was effected some time in 1916 at New York on a vessel, the name of which he recalled as the SS "King Constantine" (p. 11). A certificate of admission, which respondent identified as relating to this entry, establishes that respondent was admitted to the United States for permanent residence on March 7, 1916 at the port of New York, ex SS "Vasilefs Constantinos" (p. 99—Ex. #2). Respondent further testified that he has never since been out of the United States (p. 12). There is no evidence in the record to prove the contrary. It is therefore concluded that respondent is not subject to deportation on any documentary charge relating to the legality of his entry to the United States.

Respondent admitted that he had been a member of the Communist Party of the U. S. A., which had been known until 1929 as the Workers (Communist) Party, from 1925 until the latter part of 1939 when the Party dropped non-

citizens as members (pp. 19, 20, 39). He testified that during that entire period he had been a member in good standing of the Communist Party, had been in possession of a Party membership book, and had regularly paid dues to the Party (p. 19). He further testified that for about one year after joining the Communist Party in the United States in 1925 he had been a rank and file member; that he then had become a member of the Executive Committee of the branch of the Communist Party in which he was then a member; that thereafter in 1930 he had acted as a Party organizer in Massachusetts; that in 1931 he had become Section Organizer for the Communist Party and had received pay for his services; that about 1932 he had become a member of the Greek Bureau, a subdivision of the Communist Party; and that from 1933 to 1937 he had been Secretary of the Greek Bureau of the Communist Party and at the same time served as a "sort of editor" of the "Empros", a newspaper published in the Greek language, which was required to follow Communist Party policies as formulated by the Greek Bureau of the Communist Party and by which respondent was paid a salary (pp. 20 to 23). Respondent further testified that from 1937 to the date in 1939 when his Communist Party membership ceased, he served as a member of the Greek Bureau of the Communist Party and continued to work as a staff member on the newspaper "Empros" until it went out of existence in 1939 (p. 94).

Respondent acknowledged that he is personally familiar with the history of the Communist Party in the United States, and that during all of the time from 1925 to 1939 that he was a member of the Communist Party in the United States, the Party was a Section of the Communist International, which had its headquarters in Moscow, U. S. S. R. (pp. 48 to 49).

As already stated, there is no evidence in the record to contradict respondent's testimony to the effect that his membership in the Communist Party, and his connection with the Communist International, ceased in 1939. There is also nothing in the evidence to establish definitely that any of the organizations with which respondent is presently associated, is of such a nature as to be within any of the classes proscribed by Section 1 of the aforesaid statute (pp. 16, 17 and 96 to 98). Respondent testified that since 1939 he has associated with, and been in the company

of, members of the Communist Party only in his capacity as reporter, but that he has not officially cooperated with that Party (p. 39). Respondent's testimony as to this present association does not indicate it to be a working alliance to bring the Communist program to fruition, amounting to "affiliation" within the meaning of the statute (*Bridges* v. *Wixon*, 65 S. Ct., 1443, 1945).

Since respondent's Communist membership and affiliation had terminated, so far as the evidence in the record establishes, approximately seven years before the warrant of arrest was served upon him in 1946, it is evident that the charge in the warrant of arrest of present membership in, or affiliation with, a proscribed organization is not sustained by the evidence.

However, upon the basis of respondent's testimony and the other evidence in the record which is hereinafter discussed, three additional charges under the Act of October 16, 1918, as currently amended, were lodged against respondent (p. 41). These additional charges, in substance, charge respondent with:

(1) Past belief in, advising, advocating, or teaching the overthrow by force or violence of the Government of the United States;

(2) Past membership in an organization that believed in, advised, advocated, or taught the overthrow by force or violence of the Government of the United States; and

(3) Past affiliation with an organization that has believed in, advised, advocated, or taught the overthrow by force or violence of the Government of the United States.

These three lodged charges are based upon Section 2 of the aforementioned statute, as currently effective, and derive from Section 1(c) of the same statute which proscribes certain enumerated categories of aliens. It is clear from the use of the disjunctive "or" between the series of phrases and words in the latter Section of the statute that if any one of the three lodged charges is sustained, respondent's deportability is established.

Accordingly, a separate discussion as to the evidence pertinent to each of the lodged charges follows. Since the matter of affiliation is fundamental both to respondent's

belief and to his membership, the evidence relative thereto is first discussed.

By the terms of the statute itself, "affiliation" is defined to include the giving, loaning, or promising of money, or anything of value to an organization which believes in, advises, advocates, or teaches the overthrow of the Government of the United States by force or violence (8 U. S. C. 137 f). The Supreme Court has further defined "affiliation" to mean less than membership, but more than sympathy, and to include an act or acts, whether intermittent or repeated, of such a quality as to indicate an adherence to, or a furtherance of the proscribed purposes of an organization, as distinguished from mere cooperation with it in its wholly lawful activities, or to mean actions of such a nature as necessarily to evidence a working alliance to bring to fruition the program condemned by the statute (*Bridges* v. *Wixon, supra*).

In the case of *Bridges* v. *Wixon*, the Supreme Court, in discussing whether the term "affiliation" included cooperation with a proscribed organization in its wholly lawful activities, on Page 1447 stated:

> ". . . Common sense indicates that the term 'affiliation' *in this setting* should be construed more narrowly . . ." (Inspector's Note: Underscoring supplied).

It is clear from this excerpt that the Supreme Court did not intend its construction in that case of the term "affiliation" to comprise, together with the statutory definition, an exclusive definition of the term.

In the opinion of the Presiding Inspector, membership in one organization which in turn is itself affiliated with another organization, constitutes "affiliation" with the latter organization within the meaning of the use of the term in the statute. Such a relationship has been judicially held to be an "affiliation" within the meaning of the statute in question by the Circuit Court of Appeals for the Seventh Circuit in the case of *Kjar* v. *Doak* (61 F. 2d 566, 1932). In that case the Court, on Page 569, stated:

> ". . . The Communist Party of America is an affiliate of that organization (Inspector's Note: Communist International), and by reason of that affiliation, ap-

pellant, who admits membership in the latter (Inspector's Note: Communist Party of the U. S. A.) must be considered an affiliate of the former organization . . ."

It appears that the Supreme Court opinion in the case of *Bridges* v. *Wixon, supra,* did not rule out the application to respondent's case of this construction of the term "affiliation". It can fairly be stated that an individual, who voluntarily became a member of an organization at a time when that organization was affiliated with another organization, and voluntarily remained a member of the first organization for over fourteen years, during which he knew that the affiliation of the two organizations continued to exist, was during that time an affiliate of the latter organization. In the opinion of the Presiding Inspector, such an association or connection of itself constitutes "affiliation" within the meaning of the statute quite apart from the question of adherence to the proscribed program of the organization to which affiliated, or of a "working alliance" to bring to fruition the program condemned by the statute.

It has already been noted that respondent has admitted that he had been an active member of the Communist Party in the United States from 1925 to 1939; that he is personally familiar with the history of the Communist Party during the period of his membership; and that during all of the time that he was a member, the Communist Party in the United States was a Section of the Communist International which had its headquarters in Moscow, U. S. S. R. Respondent readily admitted that during the time, from 1925 to 1939, that he had been a member of the Party, the Communist Party of the U. S. A. was affiliated with the Communist International, and through the Communist International with Communist Parties in other countries (p. 25).

There is other evidence in the record in addition to respondent's testimony to establish conclusively that during the period of respondent's membership the Communist Party in the United States had been affiliated with the Communist International. Respondent acknowledged familiarity with the fact that in 1938 the Communist Party of the United States of America adopted a constitution which was ratified by the membership. A pamphlet entitled, "The Constitution and By-Laws of the Communist Party of the United States of America", which is indicated

on the reverse side of its cover to have been unanimously adopted by the Tenth National Convention of the Communist Party of the U. S. A. in New York in May 1938, was shown to respondent. He conceded that this pamphlet was a true copy of the 1938 Constitution and By-Laws of the Communist Party of the U. S. A. It was thereupon entered in evidence (p. 27, Ex. #4). Article II of this Constitution sets forth that the emblem of the Party shall have inscribed thereon ". . . Affiliated to the Communist International" (p. 7 of Ex. #4). Article XI of this same Constitution in part states:

> "The Communist Party of the U. S. A. is affiliated with its fraternal Communist Parties of other lands through the Communist International and participates in International Congresses, through its National Committee . . ." (p. 21 of Ex. #4).

It is noted from evidence submitted by the respondent that the above-quoted constitutional provisions remained in effect from May, 1938, when adopted, until at least November, 1940 when the Eleventh National Convention of the Communist Party of the U. S. A. absolved itself of responsibility for any prior documents, policies, books, articles, or other expressions of political opinion (p. 83).

There was entered in evidence a pamphlet, identified by respondent as a true copy, which is entitled "Program of the Communist International Together with its Constitution", and which is indicated on the reverse side of its title page to be a third edition, published in February, 1936, of the Program and Constitution of the Communist International, which were adopted on September 1, 1928 by the Sixth World Congress of the Communist International (pp. 29 and 51, Exhibit 5). Respondent acknowledged that this 1936 edition is generally recognized as a true copy of what it purports to be (p. 51).

Respondent testified that it was "quite possible" that the Communist Party in the United States, as a Section of the Communist International, had sent representatives to the Sixth World Congress of the Communist International which had adopted the above-noted program and constitution on September 1, 1928 (p. 49). He further testified that the general principles set forth in the pamphlet (Ex. #5) had been applicable to the United States on the basis of the particular situations existing in the United States

from 1928 to 1940, on which latter date the Communist Party in the United States withdrew from the Communist International (p. 50).

In the first part of the Constitution of the Communist International, contained in the pamphlet, Exhibit 5, there appears the following (p. 87 of Ex. #5):

> "1. The Communist International—the International Workers' Association—is a union of Communist Parties in various countries; it is the world Communist Party . . .
>
> "2. Each of the various Parties affiliated to the Communist International is called the Communist Party of ———— (name and country) (Section of the Communist International). In any given country there can be only one Communist Party affiliated to the Communist International and constituting its Section in that country.
>
> "3. Membership in the Communist Party and in the Communist International is open to all those who accept the program and rules of the respective Communist Party and of the Communist International, who join one of the basic units of the Party, actively work in it, abide by all the decisions of the Party and of the Communist International, and regularly pay Party dues.
>
> . . . . .
>
> "5. Party questions may be discussed by the members of the Party and by Party organizations until such time as a decision is taken upon them by the competent Party organs. After a decision has been taken by the Congress of the Communist International, by the Congress of the respective Sections, or by leading committees of the Comintern, and of its various Sections, the decision must be unreservedly carried out even if a part of the Party membership or of the local Party organizations are in disagreement with it . . ."

The second part of this Constitution in part sets forth (p. 89 of Ex. #5):

> "8. The supreme body of the Communist International is the World Congress of representatives of

all Parties (Sections) and organizations affiliated to the Communist International . . ."

The evidence discussed above clearly establishes that during the entire period from 1925 to 1939 that respondent was a member of the Communist Party in the United States, he was affiliated with the Communist International and that from 1928 on, under the Constitution of the latter organization, he was duty bound to carry out its dictates. Respondent stated, in reference to certain portions of the Constitution of the Communist International, which sets forth the obligatory nature of the decisions of the Executive Committee of the Communist International, and which were quoted in the record, that so far as he knew, the quoted "instructions", as he termed them, were never put into practice. He testified that he could produce no evidence to substantiate this statement, and that the basis for the statement was the fact that he did not "have any actual experience to prove that those instructions were so carried out" (p. 56). The inference is drawn from this statement of respondent that there never has been any disobedience to the decisions of the Executive Committee of the Communist International by the Sections because the only way that experience to demonstrate that the constitutional provisions were ineffective could actually be obtained, would have been for the Sections to have failed, without being penalized for the failure, to carry out the decisions of the Communist International. In the opinion of the Presiding Inspector, the burden of proof here is upon the respondent to show that the constitutional provisions were ineffectual and not of full force and effect. Other than his weak statement in this regard, respondent has advanced no evidence. It may fairly be assumed, in the absence of substantive evidence to the contrary, that constitutional provisions are binding upon those subject to them and continue to be effective until abrogated or revoked by the properly constituted authority, as provided in the Constitution.

It is therefore concluded that respondent's relationship to the Communist International from 1925 to 1939 was a strong bond, almost tantamount to membership, in view of the obligatory responsibility devolving upon the respondent under the Constitution of the Communist International to carry out the decisions of that organization. Unquestionably, this relationship constituted "affiliation"

within the meaning of the use of the terms in the Act of October 16, 1918, as amended.

The question next to be determined is whether the Communist International during the period of respondent's affiliation therewith believed in, advised, advocated, or taught the overthrow by force or violence of the Government of the United States. As already noted, respondent has acknowledged that during his entire period of membership in the Communist Party, from 1928 onward, the general principles, so far as applicable to the United States, of the "Program of the Communist International Together with its Constitution", as contained in the 1936 edition (Ex. 5), were the fundamental basis for Communist policy in the United States. The matter, then, at issue is whether any portion of the program and declarations of aims, tactics or policy found in these documents amounted to belief in, advising, advocating, or teaching the overthrow by force or violence of the Government of the United States.

The program and constitution of the Communist International must be examined as an organic whole, since lifting sentences and paragraphs out of context may entirely distort import and meaning. Although extensive quotations from these documents, as contained in Exhibit #5, have been entered into the record, this was done by the Presiding Inspector so as to elicit from respondent his personal belief so that there might be clearly delineated in the record the full import of his testimony to the effect that he fully agreed and subscribed to the published aims, doctrines and principles of the Communist Party, and that, with qualifications, he agreed and subscribed to the aims, doctrines and principles of the Communist International (pp. 25, 26, 96). The further purpose for introducing these excerpts into the record was to afford respondent an opportunity to present his interpretation of the meaning of the documents in evidence.

Respondent's beliefs and interpretations are important in connection with the charge which was lodged against him as to his own belief in, advising, advocating, or teaching of the doctrines denounced by the statute. However, they are not as significant with respect to the issue of the purport of the documents in evidence. It is noted that respondent testified that he received formal training in Marxian doctrine, conducted by the Communist Party, and that the "Program of the Communist International" was dis-

cussed and studied after its publication in 1928 by the Communist unit of which respondent was a member (p. 111). It would appear from this that respondent's construction of the documents should merit serious consideration. On the other hand, the self-serving element in respondent's testimony must be considered in weighing his asserted interpretations. While the renditions advanced by respondent have been considered in evaluation of the meaning of the documents in evidence, they have not been accepted at face value, nor considered controlling, by the Presiding Inspector. Respondent's contentions are hereinafter considered in relation to the issue now under discussion, and further are more fully discussed later in connection with the lodged charge relating to respondent's own beliefs, advocacy or teaching.

In the opinion of the Presiding Inspector, it must be borne in mind that the "Program of the Communist International" and its "Constitution" were not casually produced or framed to meet a temporary situation. They were adopted by a World Congress of the Communist International in 1928, and withstood, as testified to by respondent, the test of time, unchanged through other World Congresses until the dissolution of the Communist International in 1943. The Constitution so adopted laid the framework and structure for the Communist world organization. The "Program" is an exposition of the history of Communism, of the then existing world situation, of the ultimate aim of the Communist International, and of the strategy and tactics to be pursued in effecting that ultimate aim. The "Program", itself in its introduction states (p. 9 of Exh. 5):

> "The experience gathered from the first imperialist war, from the subsequent period of revolutionary crisis of capitalism, from the series of revolutions in Europe and in the colonial countries; the experience gathered from the dictatorship of the proletariat and socialist construction in the U. S. S. R. and from the work of all the Sections of the Communist International as recorded in the decisions of its Congresses; finally, the fact that the struggle between the imperialist bourgeoisie and the proletariat is more and more assuming an international character—all this creates the need for a program of the Communist International, a uniform and

> common program for all Sections of the Communist International. This program of the Communist International, as the supreme critical generalization of the whole body of historical experience of the international revolutionary proletarian movement, becomes the *program of struggle for the world proletarian dictatorship, the program of struggle for world communism.*" (Italics in original.)

Unquestionably, the "Program of the Communist International Together with its Constitution" represents considered principles and is couched in studied language. Upon the basis of careful examination of the documents contained in Exhibit #5, it is the opinion of the Presiding Inspector that despite the bombast and exhortations appearing in places, the "Program" was a schematic blueprint of Communist principles, precepts, aims, strategy and tactics intended for worldwide dissemination and full implementation by Communist Parties in all countries, and that the Constitution was the means whereby the Communist world organization was governed.

The next question at hand is whether the language and words used in these documents should be given their ordinary dictionary meaning, as understood by people generally. Bearing in mind the scope of the documents, as already discussed, the Presiding Inspector is of the opinion that the language of the documents should be so construed.

The "Program" boldly states the nature of the Communist International in these words (p. 10 of Exh. 5):

> "* * * the Communist International is the only international force that has for its program the dictatorship of the proletariat and communism, and that openly comes out as the *organizer of the international proletarian revolution.*" (Italics in the original.)

In its first chapter, the "Program" sets forth that the characteristic features of capitalistic society are its "exploitation relationships and the economic domination of the bourgeoisie and their political expressions in the organized capitalist state—the instrument for the suppression of the proletariat" (p. 11 of Exh. 5). It is noted that here the "Program" speaks in terms of general applicability to all "capitalist states".

After discussing the inherent contradictions of capitalism, the "Program" states (p. 15 of Exh. 5):

> "* * * the imperialist form of capitalism places the broad masses of the proletariat in opposition, not to a single employer, but, to an increasing degree, to the capitalist class as a whole *and to the capitalist state* * * *" (Italics supplied.)

It is noted that here too the "Program" speaks in terms of general applicability to all "capitalist states".

The "Program" then goes on to discuss state power and the effect of the increasing pressures of the imperialist state upon the working class, expressing the enormous growth of the power of the state. In this connection, the "Program" asserts (p. 16 of Exh. 5):

> "* * * Under these circumstances, every more or less important action of the proletariat becomes transformed into an action against the state power, i.e., into political action * * *".

It is noted that here also the "Program" refers to all "capitalist states".

The "Program" then further discusses the fundamental contradiction of capitalism, and states (pp. 16 to 17 of Exh. 5):

> "* * * Finally, two main revolutionary forces are organizing against the organized might of finance capital—on the one hand, *the workers in the capitalist states*, on the other, the victims of the oppression of foreign capital, *the masses of the people in the colonies*, marching under the leadership and the hegemony of the international revolutionary proletarian movement. * * *" (Italics in original.)

The "Program" develops this thesis to the conclusion that the capitalist system as a whole is approaching its final collapse and that the dictatorship of finance capital is perishing to give way to the dictatorship of the proletariat (p. 19 of Exh. 5). It is noted that here too the terms are of general application to all capitalist countries.

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After discussing the general crisis of capitalism following World War I, the "Program" identifies the United States in the following language (p. 27 of Exh. 5):

> "* * * The conflict between Great Britain—the most powerful of the old, conservation imperialist states—and the United States—the greatest of the young imperialist states, which has already won world hegemony for itself—is becoming the pivot of the world conflicts among the finance capitalist states. * * *"

It is clear, then, that in referring to imperialist and finance capitalist states, the "Program" includes the United States.

The "Program" states in so many words (p. 30 of Exh. 5):

> "The ultimate aim of the Communist International is to replace world capitalist economy by a world system of communism. Communist society * * * is mankind's only way out * * *"

It then asserts that Communist society will abolish the class division of society and private ownership of the means of production, and that with the abolition of these, "the state, being the embodiment of class domination, will wither away insofar as classes disappear, and with it all measures of coercion will expire." (p. 31 of Exh. 5).

The "Program" then discusses the period of transition from capitalism to Communist society. This is where we have to look for the determination of the matter here at issue, i.e., is overthrow by force or violence of the Government of the United States advocated by the "Program". The "Program" sets forth (p. 34 of Exh. 5):

> "Between capitalist society and communist society a period of revolutionary transformation intervenes, during which the one changes into the other. Correspondingly, there is also an intervening period of political transition, *in which the essential state form is the revolutionary dictatorship of the proletariat.* * * *" (Inspector's Note: Italics supplied.)

Here lies the crux of the matter at issue as to how the "Program" believes, advocates or advises that the change

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> "There is no way out of the general crisis of capitalism other than the one shown by the *October Revolution* via the overthrow of the exploiting classes by the proletariat, the confiscation of the banks, of the factories, the mines, transport, houses, the stocks of goods of the capitalists, the lands of the landlords, the church and the crown. * * *"

Respondent commented at length with regard to this document to the effect that much of the Communist estimate of the then existing situation has been proven to be correct; and that by its reference to "established church and kingdom" it is clear that the document did not have full application to the United States (pp. 58 to 61). Respondent's first contention is irrelevant because the Communist estimate of the situation existing in 1933 is not in issue here, but the solution proposed by the Communist International is. The second argument is fallacious, in the opinion of the Presiding Inspector, since the reference alluded to by respondent widens rather than narrows its applicability.

Bearing in mind that excerpts taken out of context are subject to having their meaning distorted, the Presiding Inspector has thoughtfully reviewed as an entity the document here under consideration. It is apparent that this Thesis is a reiteration of the precepts set forth in the "Program of the Communist International", pointed to cover the critical worldwide situation which existed in 1933. This Thesis plainly and emphatically advocated the union of the forces of the toilers "for a counter-blow and the crushing of bourgeois rule". It is clear, to the point of not requiring mention, that the United States was comprehended within the purview of the Thesis.

This evidence adds cumulative force to the conclusion already made. In addition, it also bears importantly on the relationship between the Communist International and the Communist Party in the United States, as hereinafter discussed.

Respondent's membership in the Communist Party in the United States is the next matter at issue. It has already been pointed out that respondent's own admission has established that he was a member of the Communist Party from 1925 to 1939. Therefore in relation to the

charge lodged against respondent as to membership in an organization holding views denounced by the statute, it is to be determined whether, during the period of respondent's membership, the Communist Party in the United States believed in, advised, advocated, or taught the overthrow by force or violence of the Government of the United States.

As already stated, it is the opinion of the Presiding Inspector that the documentary evidence at hand is to be considered on its own merits. Accordingly, respondent's contentions are not being regarded as controlling in regard to deciding this issue now under consideration. Consequently, respondent's statements to the effect that the Communist Party did not teach or advocate the forcible overthrow of the United States Government, and that he did not find such a doctrine in any official document of the Communist Party (pp. 38 to 39) are subject to the qualification that they may be self-serving statements. Nevertheless, they have been considered in weighing the evidence as to this issue.

It has been noted above that the respondent has admitted that the "Program of the Communist International", in so far as applicable to the United States, formed the basis for the principles and policies of the Communist Party in the United States during all of the time from 1928 to 1939 that respondent was a member (p. 50). Respondent was advised that so far as the Presiding Inspector has been able to ascertain, the Communist Party in the United States did not have any written constitution or written set of permanent principles from 1928 to 1938 other than the policies and precepts it drew from the applicable portions of the "Program of the Communist International". Respondent testified in this regard that he did not recall whether or not there were other written principles or constitution, but that the matter could be determined by investigation. He offered no evidence tending to show the existence of any written constitution or declaration of permanent principles of the Communist Party in the United States during the period under discussion. Accordingly, it is accepted, in the absence of evidence to the contrary, that the "Program of the Communist International" was the guiding precept for the Communist Party in the United States from 1928 to 1938. As will be later discussed, the

constitution of the Communist Party in the United States in effect from 1938 to 1940 was predicated upon the principles embodied in the Communist International. Accordingly, it appears that during all of the period of respondent's membership in the Communist Party in the United States from 1928 to 1939, that Party was obliged to carry out the provisions of the "Program of the Communist International". Moreover, respondent has raised no issue as to the applicability of the constitution of the Communist International to the Communist Party in the United States during the period of his membership from 1928 to 1939 other than to state that so far as he knew, some of the "instructions" therein were never carried out. This latter point has already been discussed.

It has already been stated that respondent has conceded that it was "quite possible" that the Communist Party in the United States, as a Section of the Communist International, sent representatives to the Sixth World Congress of the Communist International which adopted the "Program of the Communist International Together with its Constitution" on September 1, 1928 (p. 49).

There has already been quoted in this opinion an excerpt from the first part of the constitution of the Communist International which establishes that that organization was a union of the Communist Parties in the various countries; that each of the various Parties affiliated with the Communist International is termed a Section thereof; and that the supreme body of the Communist International is the world congress of representatives of all Sections of the Communist International and other organizations affiliated with the Communist International.

The constitution of the Communist International, as contained in Exhibit 5, also provides in Section II thereof as follows (p. 89 of Ex. 5):

> "* * * 8. The World Congress discusses and decides the programmatic, tactical and organizational questions connected with the activities of the Communist International and of its various Sections. Power to alter the Program and Constitution of the Communist International lies exclusively with the World Congress of the Communist International. * * *
>
> * * *

"10. The World Congress elects the Executive Committee of the Communist International (E.C.C.I.), and the International Control Commission (I.C.C.). * * *"

It further provides in Section III thereof as follows (pp. 90 to 91 of Ex. 5):

"12. The leading body of the Communist International in the period between Congresses is the Executive Committee, which gives instructions to all the Sections of the Communist International and controls their activity.

* * *

"13. The decisions of the E.C.C.I. are obligatory for all the Sections of the Communist International and must be promptly carried out. The Sections have the right to appeal against decisions of the E.C.C.I. to the World Congress, but the decisions of the E.C.C.I. must be carried out pending the action of the World Congress.

"14. The Central Committees of the various Sections of the Communist International are responsible to their respective Party Congresses and to the E.C.C.I. The latter has the right to annul or amend decisions of Party Congresses and of Central Committees of Parties and also to make decisions which are obligatory for them (Cf. Par. 13).

"15. The E.C.C.I. has the right to expel from the Communist International, entire Sections, groups and individual members who violate the program and constitution of the Communist International or the decisions of the World Congress or of the E.C.C.I. Persons and bodies expelled have the right to appeal to the World Congress.

"16. The programs of the various Sections of the Communist International must be endorsed by the E.C.C.I. In the event of the E.C.C.I. refusing to endorse a program, the Section concerned has the right to appeal to the World Congress of the Communist International.

"17. The leading organs of the press of the various Sections of the Communist International must publish all the decisions and official documents of the E.C.C.I. These decisions must, as far as possible, be published also in the other organs of the Party press.

* * *

"19. The E.C.C.I. elects a Presidium responsible to the E.C.C.I., which acts as the permanent body carrying out all the business of the E.C.C.I. in the interval between the meetings of the latter.

* * *

"21. The Sections must carry out the instructions of the permanent bureaus of the E.C.C.I. Sections may appeal against the instructions of the permanent bureaus to the E.C.C.I. or to its Presidium, but must continue to carry out such instructions pending the decision of the E.C.C.I. or of its Presidium."

It further provides in Section V thereof (pp. 93 to 94 of Ex. 5) the following:

"29. The Central Committees of Sections affiliated to the Communist International and the Central Committees of affiliated sympathizing organizations must send to the E.C.C.I. the Minutes of their meetings and reports of their work.

"30. Resignation from office by individual members or groups of members of Central Committees of the various Sections is regarded as disruptive of the Communist movement. Leading posts in the Party do not belong to the occupant of that post, but to the Communist International as a whole. Elected members of the Central leading bodies of the various Sections may resign before their time of office expires only with the consent of the E.C.C.I. Resignations accepted by Central Committees of Sections without the consent of the E.C.C.I. are invalid.

* * *

"33. The Sections of the Comintern must regularly pay affiliation dues to the E.C.C.I.; the amount of such dues to be determined by the E.C.C.I. . . ."

These provisions, which in the absence of evidence to the contrary are accepted as having been fully effective, conclusively establish that the Communist Party in the United States was an integral section of an international organization; that it was subject to the rigid control and direction of the central governing body and executive agency of that international organization. The Communist Party in the United States was required to carry out unreservedly the decisions of the World Congress of the Communist International. The decisions of the Executive Committee of the Communist International were obligatory and had to be followed by the Communist Party in the United States, subject only to appeal to the World Congress. The Executive Committee of the Communist International had the right to annul or amend decisions of the Congresses, and of the Central Committee, of the Communist Party in the United States. It also had the right to expel the Communist Party of the U. S. A. from the Communist International if that Party violated the Program and Constitution of the Communist International or decisions of the World Congress or instructions of the Executive Committee of the Communist International. The fact that this never occurred is evidence of the consonance of the actions of the Communist Party in the United States with the directions of the Communist International. The programs of the Communist Party in the United States had to be endorsed by the Executive Committee of the Communist International. The Communist Party in the United States was obliged to carry out the instructions of the permanent bureaus of the E.C.C.I., and even if it appealed from such instructions, had to continue to carry out the instructions pending decision on the appeals.

The "Program of the Communist International" itself gives the cogently reasoned basis for the subjugation of the Communist Sections to the Communist International. It states (pp. 84 to 85 of Ex. 5):

". . . In order that revolutionary work and revolutionary action may be coordinated and in order that these activities may be guided most successfully, the international proletariat must be bound by *interna-*

> *tional class discipline* (Italics in original), for which, first of all, it is most important to have the strictest international discipline in the Communist ranks.
>
> "The international Communist discipline must find expression in the subordination of the partial and local interests of the movement to its general and lasting interests and in the strict fulfillment, by all members, of the decisions passed by the leading bodies of the Communist International.
>
> "Unlike the Social-Democratic, Second International, each section of which submits to the discipline of 'its own' national bourgeoisie and of its 'fatherland', the Sections of the Communist International submit to only one discipline, viz., international proletarian discipline, which guarantees victory in the struggle of the world's workers for world proletarian dictatorship . . ."

It may be noted from the above excerpt that the "Program" asserts that the Sections of the Communist International submit only to the discipline of the Communist International and not to the discipline of the governments of their countries.

Obviously, the Communist Party in the United States, as part of this world organization and subject to the above-cited stringent conditions, could hardly be considered a "political party" in the ordinary conception of the term in the United States. In the common American sense, a political party is an association of individual citizens having a certain community of opinion, which selects candidates for public office and which formulates policies which its candidates are pledged to pursue if and when elected.

The Supreme Court in the case of *Schneiderman* v. *U. S.* (63 S. Ct., 1333, 1945), has stated at Page 1351:

> ". . . Political writings are often over-exaggerated polemics bearing the imprint of the period and the place in which written. Philosophies cannot generally be studied in vacuo . . . Every utterance of party leaders is not to be taken as party gospel. And we would deny our experience as men if we did not recognize that official party programs are unfortunately often opportunistic devices as much honored in the breach as in the observance . . ."

This reasoning of the Supreme Court is well applicable to the ordinary American political party, as has been established election after election; but in the opinion of the Presiding Inspector it is not relevant to the Communist organization by reason of the rigid control exercised, as indicated above. Certainly the declaration in the Constitution of the Communist International to the effect that "decisions of the higher Party organs to be obligatory for the lower organs, strict Party discipline and prompt execution of the decisions of the Communist International, of its leading committees and of the leading Party centers" (p. 88 of Ex. 5), does not fit in with the above-noted observation of the Supreme Court with respect to political parties. That the Communist Party is not simply a political party is evidenced by the following excerpt from the "Program of the Communist International" (pp. 76 to 77 of Ex. 5):

> ". . . . The successful struggle of the Communist International for the dictatorship of the proletariat presupposes the existence in every country of a compact Communist Party, hardened in the struggle, disciplined, centralized, closely linked up with the masses.
>
> "*The Party* (Italics in original) is the vanguard of the working class and consists of the best, most class-conscious, most active, and most courageous members of that class . . . the Party personifies the unity of proletarian principles, of proletarian will and of proletarian revolutionary action. It is a revolutionary organization, bound by iron discipline and strict revolutionary rules of democratic centralism . . ."

What democratic centralism is is revealed by the statement of its fundamental principles appearing in Paragraph 5 of Section I of the Constitution of the Communist International, which provides for the election of the leading committees, periodical reports by leading committees to their constituents; the obligation of lower organs to promptly execute the decisions of the higher Party organs; the discussion of Party questions until such time as a decision is rendered by the competent Party organs, whereupon the decision must be unreservedly carried out even if there be disagreement with it.

Opinion of the Presiding Inspector

It has been noted that the respondent has advanced no evidence to show that the Constitution and Program of the Communist International were not fully applicable to the United States. On the other hand, there is evidence in the record of one instance wherein the Communist Party in the United States carried out an instruction of the Communist International exactly in accordance with the provisions of the Constitution of the Communist International. This instance demonstrates the close link that existed between the actions of the Communist Party in the United States and the precepts of the Communist International.

The action of the Thirteenth Plenum of the Executive Committee of the Communist International in adopting a Thesis in December 1933, which called for the implementation of the task of raising before the masses "the revolutionary way out of the crisis of capitalism" (Ex. 11), has already been mentioned. The editorial of the Communist Party appearing in the May, 1934 edition of the magazine "The Communist" which is entitled, "The Eighth Convention of our Party" (Ex. 10), to which reference has already been made, discloses that this Thesis of the Executive Committee of the Communist International was endorsed by the Eighth Convention of the Communist Party in the United States. Respondent could not confirm nor deny, because of claimed lack of knowledge, whether the Central Committee of the Communist Party of the U. S. A. at a meeting in January, 1934 expressed its agreement with the Thesis of the Thirteenth Plenum of the E.C.C.I. He testified that he had been in attendance at the Eighth National Convention of the Communist Party of the U. S. A., which met in Cleveland, Ohio, in April 1934. He acknowledged that this convention approved the action of the Executive Committee of the Communist Party of the U. S. A. in declaring its agreement with the aforesaid Thesis, and adopted a Manifesto and certain Resolutions (pp. 65 to 66). He conceded that the Eighth Convention of the Communist Party of the U. S. A. comprised regularly elected voting delegates from all units of the Communist Party in the United States, and other delegates representing organizations associated with the Communist Party, and that the Manifesto and Resolutions were adopted in complete unanimity by the voting delegates (p. 67). He identified a Manifesto and Three Resolutions appearing in a pamphlet entitled "The Way Out", as true copies of

the Manifesto and Resolutions adopted by the Eighth Convention of the Communist Party of the U. S. A. in April 1934 (p. 66). The Manifesto and Three Resolutions appearing in this pamphlet were entered in evidence over the objection of respondent's attorney (p. 66, Ex. 12). The Presiding Inspector overrules the attorney's objection on the grounds noted in the margin.[3]

It is noted that the editorial of the Communist Party, Exhibit 10, sets forth at Page 427:

> "... In endorsing the E.C.C.I. Thesis, the Eighth Convention of our Party was guided by the recognition that the acute problem, the task underlying all tasks, which confronts it today is the development of the subjective factors for the revolutionary situation. For, the downfall of capitalism does not come about through automatic collapse; it is brought about through revolutionary overthrow by the proletariat at the culminating point of its struggle. The revolution is the achievement of the revolutionary class. By recognizing the development of the objective conditions favorable for a revolutionary crisis and by acting upon them, systematically, decisively, with a revolutionary will, the proletariat speeds the moment of capitalism's downfall. Concretely then, the Party's task is the preparation of the working class, through day-to-day struggle, for the practical work of revolution, for its historic role of assuming dictatorship ..."

This passage quoted from the Communist Party editorial assumes greater import when examined with the program outlined in the "Program of the Communist International" in mind. It is the opinion of the Presiding Inspector that the term "revolution" is here used in the sense of "civil insurrection", that is, by the use of force and violence.

With reference to the Manifesto and Resolutions adopted by the Eighth Convention of the Communist Party, it is

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3. Attorney's objection is overruled on the following grounds: The fact that these documents may have been drafted to meet what was then considered to be the situation and may not have represented basic doctrine of the Communist Party is irrelevant since, as respondent has admitted, they were adopted by the Communist Party; the fact that they were no longer binding after 1938 is likewise immaterial for the same reason; in the opinion of the Presiding Inspector these documents are competent evidence in view of the fact that respondent was a member during the time that they were effective; their relevancy and materiality are evidenced above.

noted that a comparison of the missions prescribed therein for the Party with the tasks outlined in the "Thesis of the Thirteenth Plenum of the E.C.C.I." significantly discloses that the Manifesto and Resolutions of the Eighth Convention of the Communist Party were an elaboration of the tasks outlined in the Thesis, with the underlying aim of bringing about a revolutionary situation in the United States. The length of this opinion does not permit of extensive quotations from the two documents to show this coincidence, but the similitude is readily apparent from any superficial comparison of the two documents.

It is noteworthy that the first Resolution, in referring to the Communist Party, states (p. 44 of Ex. 12):

> ". . . The Party itself has been cleansed of opportunists and liquidators (Lovestoneites, Trotskyites) and unified and consolidated on the line of the Communist International . . ."

As already established, the "line" of the Communist International was overthrow of existing bourgeois governments by other than parliamentary means. Respondent, significantly, had no comment to make with regard to this excerpt (p. 88).

The following few excerpts from the pamphlet "The Way Out" (Ex. 12) suffice to show the nature of "the way out" of the crisis existing in 1934, which the Communist Party of the U. S. A. proposed:

> "* * * This tremendous wealth, these gigantic productive forces, are locked away from the masses who could use them. They are the private property of the small parasitic capitalist class, which locks up the warehouses and closes the factories in order to compel a growing tribute of profit. This paralysis of economy in the interest of profit, at the cost of starvation and degradation to millions, is enforced by the capitalist government with all its police, courts, jails and military.
>
> "There is no possible way out of the crisis in the interest of the masses except by breaking the control of the State power now in the hands of this small monopolist capitalist class. There is no way

out except by establishing a new government of the workers in alliance with the poor farmers, the Negro people, and the impoverished middle class.

"There is no way out except by the creation of a revolutionary democracy of the toilers, which is at the same time a stern dictatorship against the capitalists and their agents. There is no way out except by seizing from the capitalists the industries, the banks and all of the economic institutions, and transforming them into the common property of all under the direction of the revolutionary government. There is no way out, in short, except by the abolition of the capitalist system and the establishment of a Socialist society. * * *" (At Page 26).

"* * * The capitalist way out of the crisis lies along the way of wage cuts, speed-up, denial of unemployment insurance, fascism and war. The revolutionary way out of the crisis begins with the fight for unemployment insurance, against wage cuts, for wage increases, for relief to the farmers—through demonstrations, strikes, general strikes, leading up to the seizure of power, to the destruction of capitalism by a revolutionary workers' government. * * *" (At Page 29).

"* * * The central task of the Party is to organize and lead the fight against the offensive of the capitalist class, against developing fascism and the threat of imperialist war, and to develop these struggles, on the basis of the fight for the immediate partial demands of the workers, into general class battles for the overthrow of capitalist dictatorship and the setting up of a Soviet government. * * *" (At Page 45).

It is apparent from these excerpts that the strategy, tactics, and slogans here advanced by the Communist Party in the United States are identical with those advanced in the "Program of the Communist International", which have already been outlined.

Opinion of the Presiding Inspector

The contention advanced by respondent as to the proper interpretation of the phraseology and intent of this Manifesto and these Resolutions of the Eighth Convention of the Communist Party is, in the opinion of the Presiding Inspector, totally unconvincing (pp. 67 to 88). Bearing in mind here too that extracting paragraphs from context may distort meaning, the Presiding Inspector has attentively examined the Manifesto and Resolutions under discussion, and concludes that the way out of the then existing crisis in the United States proposed by the Communist Party of the U. S. A. necessarily included the use of force and violence in the overthrow of the Government of the United States, as it was then constituted, in the contemplated "seizure of power". It is noted that the last cited excerpt sets forth that the central task of the Party is to develop the struggles "into general class battles for the overthrow of *capitalist dictatorship*". The term "capitalist dictatorship" is distinguishable from the term "capitalism". "Capitalist dictatorship" refers to a governmental form whereas "capitalism" comprehends the entire economic, social, and political system. Hence, the only meaning that can be drawn from this statement by the Communist Party of its central task is a battle to overthrow the government in the United States.

It is noted that respondent admitted that the Manifesto and Resolutions adopted by the Eighth Convention were effective and constituted an official expression of Communist Party policy from 1934 to 1938. However, he stated that the Communist Party during that period also issued other declarations of policy, which changed its policy in many respects from that stated in the Manifesto and Resolutions under discussion (pp. 85 to 86).

A Communist Party editorial entitled "The Darrow Report", and a statement of the Central Committee of the Communist Party of the U. S. A. entitled "Unify the Forces of all Steel Workers for Aggressive Unionism", which are contained in the July 1934 edition of the magazine, "The Communist", were entered in evidence over the objection of respondent's attorney (pp. 88 to 89—Ex-

hibits 15 and 16). The objections of respondent's attorney are overruled for the reasons stated in the margin.[4]

The Communist Party editorial entitled "The Darrow Report" (Ex. 15) speaks at Page 615 of the *only* one way to the Communist Party objectives and that is "when the working class under the leadership of its Party forcibly overthrows capitalism and establishes the dictatorship of the proletariat. Only then can it proceed with the planned economic, political, and cultural reconstruction of society." These statements are important for two reasons: First, because of the use of the term "forcible" in relation to the overthrow of capitalism; secondly, because the assertion that the forcible overthrow of capitalism in the establishment of the dictatorship of the proletariat precedes the planned reconstruction of society, echoes the "Program of the Communist International".

In the statement of the Central Committee of the Communist Party of the U. S. A., entitled "Unify the Forces of all Steel Workers for Aggressive Unionism" (Ex. 16), the Communist Party Central Committee asserted, at Pages 660 and 661:

> "* * * Class enemies of workers' 'indict' Communists for believing in, and working for, the overthrow of capitalism and its robbery and oppression of workers. Communists proudly plead guilty to this indictment. * * *"
>
> "* * * Communists know and say that the Roosevelt Government is the government of the steel corporations, the auto companies, the big bankers and trusts. It is the government of the very biggest and most powerful capitalists.
>
> "Some workers say that this was true of Hoover, but not of Roosevelt. But there has not been any

4. Attorney's objection is overruled on the following grounds: Since these exhibits were respectively an editorial and a statement by representatives of the Communist Party, they are, in the opinion of the Presiding Inspector, competent evidence; their relevancy and materiality are demonstrated above; the fact that the magazine "The Communist" was not limited to official publications is irrelevant here because these particular publications were official on their face; the Immigration Act upon which these proceedings are based specifically includes past membership; hence evidence which arose in 1934 is properly applicable to respondent since he was then a member of the Communist Party; the question of the constitutionality of the statute is beyond the scope of these administrative proceedings; and since these proceedings are administrative, the *ex post facto* restriction does not apply.

change in the government in the U. S. It remains as it was under Hoover—a government run by an executive committee of the capitalists. Congress is composed of the representatives of the capitalist class parties as it was under Hoover. * * *".

It is apparent from the above-noted excerpts from the Communist Party Executive Committee statement that in 1934 the Communist Party did not differentiate between the capitalist system and the then existing government in the United States. Instead, it grouped them together. Obviously then, the call for the overthrow of capitalism did not stop short of the overthrow of the then existing United States Government, since that government was then considered part and parcel of capitalism. Respondent in his comment on this exhibit testified, in substance, that this extreme condemnation of the Roosevelt Administration was later modified by the Communist Party (pp. 91 and 92). However, the fact that the Party may later have altered its view of the Government does not affect the fact that in 1934 they were ready to overthrow the Government together with capitalism, if it were then feasible.

Respondent testified to the effect that he was personally acquainted with the fact that all documents issued by the Communist Party prior to 1938 were declared obsolete by the Tenth National Convention of the Communist Party of the U. S. A., meeting on May 27, 1938. He also submitted evidence tending to show that the 1940 and 1945 Conventions of the Communist Party of the U. S. A. repudiated all prior political documents, policies, books, articles, or other expressions of political opinion (pp. 82 to 83).

The actions of the Communist Party in 1940 and 1945 are irrelevant to the issues involved in respondent's case since after 1939 he was no longer a member of the Communist Party. With respect to respondent's unverified statement that the Communist Party at its 1938 Convention repudiated its prior documents and policies, it is noted that this asserted action of the Communist Party could have had no effect upon the continued applicability to the Communist Party in the United States of the Constitution and Program of the Communist International.

The reason for this is the provision in the Constitution of the Communist International, which the Communist Party in the United States was obliged to observe, to the effect that "Power to alter the Program and Constitution of the Communist International lies exclusively with the World Congress of the Communist International" (p. 89 of Ex. 5).

Respondent has advanced no claim of the repudiation or retraction of any part of the Constitution or Program of the Communist International prior to the dissolution of the Communist International in 1943. Referring again to the Constitution and By-Laws adopted by the Communist Party of the U. S. A. in 1938, which has already been discussed in relation to the affiliation of the Communist Party with the Communist International, it is noted that this Constitution in its preamble sets forth in part (pp. 5 to 6 of Exhibit 4):

> "The Communist Party of the United States of America is a working class political party carrying forward today the traditions of Jefferson, Paine, Jackson, and Lincoln, and of the Declaration of Independence; it upholds the achievements of democracy, the right of 'life, liberty, and the pursuit of happiness', and defends the United States Constitution against its reactionary enemies who would destroy democracy and all popular liberties; it is devoted to defense of the immediate interests of workers, farmers, and all toilers against capitalist exploitation, and to preparation of the working class for its historic mission to unite and lead the American people to extend these democratic principles to their necessary and logical conclusions:
>
> "By establishing common ownership of the national economy, through a government of the people, by the people, and for the people; the abolition of all exploitation of man by man, nation by nation, and race by race, and thereby the abolition of class divisions in society; that is, by the establishment of socialism, according to the scientific principles enunciated by the greatest teachers of mankind, Marx, Engels, Lenin, and Stalin, embodied in the Communist International; and the free cooperation of the

American people with those of other lands, striving toward a world without oppression and war, a world brotherhood of man.

"To this end, the Communist Party of the United States of America establishes the basic laws of its organization in the following Constitution."

The language of this preamble would appear to indicate that the Communist Party dedicated its 1938 Constitution upon the democratic principles of the American tradition. Respondent has quoted in the record of hearing Section I of Article VI of this 1938 Constitution of the Communist Party (p. 10 of Exh. 4) as evidence that the Communist Party unreservedly stood in 1938 upon the principle of the right of the majority in the United States to effect its will (p. 69). However, both the preamble and the section of the 1938 Constitution of the Communist Party warrant careful examination.

It is clear from analysis of the preamble cited above that the Communist Party in the United States in 1938 dedicated itself to accomplishing the establishment of socialism, that is, the common ownership of the national economy and the abolition of class divisions in society "according to the scientific principles enunciated by the greatest teachers of mankind, Marx, Engels, Lenin, and Stalin, *embodied in the Communist International.*" The Communist International has been found to advocate without equivocation the use of force and violence to overthrow the bourgeois governments in all capitalist countries including the United States. Therefore both the preamble and Section I of Article VI of the Constitution sensibly should be considered in relation to the principles embodied in the Communist International. As has been discussed, the principles embodied in the Communist International are to be found in its Program and Constitution.

The respondent has claimed that the provision contained in Article XI of the 1938 Constitution of the Communist Party of the U. S. A., that "resolutions and decisions of International Congresses shall be considered and acted upon by the supreme authority of the Communist Party of the U. S. A., the National Convention, or between Conventions, by the National Committee" (p. 21 of Exh. 4) proves that all of the statements appearing in the "Program of the Communist International" were not applicable.

to the United States since the Communist Party of the U. S. A. had to pass upon the decisions of the Communist International (p. 28). This contention is proven baseless by the fact that the Constitution of the Communist International, as has already been discussed, made it obligatory for the Communist Party in the United States to carry out all decisions of the Communist International, the E. C. C. I., and the other leading committees and permanent bureaus of the Communist International, even though it might disagree with such decisions (pp. 88 and 91 of Exh. 5). Moreover, the programs of the Communist Party in the United States had to be endorsed by the E. C. C. I. before such programs became effective (p. 90 of Exh. 5). Hence, it is evident that the provision of the 1938 Constitution of the Communist Party referred to by respondent in effect merely gave the Communist Party authority to consider and *carry out* the resolutions and decisions of the World Congresses of the Communist International, since under the Constitution of the Communist International the Communist Party in the United States could not withhold its assent to such resolutions and decisions.

The "Program of the Communist International" has declared that the organized capitalist state is the instrument for the suppression of the proletariat (p. 11 of Exh. 5). The "Program" states (pp. 12 to 13 of Exh. 5):

> "* * * The collection of a handful of capitalist magnates at one pole of social relationships and of a gigantic mass of the proletariat at the other * * * all this was inevitably undermining the foundations of capitalism, bringing nearer the day of its collapse. * * *"

The "Program" further asserts (pp. 35 to 36 of Exhibit 5):

> "In the struggle for the dictatorship of the proletariat, and later for the transformation of the social system, as against the alliance of capitalists and landlords, an alliance of workers and peasants is formed, under the intellectual and political hegemony of the former, an alliance which serves as the basis for the dictatorship of the proletariat. * * *"

The "Program" further sets forth (p. 37 of Exhibit 5):

> "* * * The Soviet form of state, being the highest form of democracy, namely, proletarian democracy, is the very opposite of bourgeois democracy which is bourgeois dictatorship in a masked form. The Soviet state is the dictatorship of the proletariat, the rule of a single class—the proletariat. Unlike bourgeois democracy, proletarian democracy openly admits its class character and aims avowedly at the suppression of the exploiters in the interests of the overwhelming majority of the population. It deprives its class enemies of political rights and, under special historical conditions, may grant the proletariat a number of temporary advantages over the diffused petty-bourgeois peasantry in order to strengthen its role of leader. While disarming and suppressing its class enemies, the proletarian state at the same time regards this deprivation of political rights and partial restriction of liberty as temporary measures in the struggle against the attempts on the part of the exploiters to defend or restore their privileges. * * *"

The "Program" further states (p. 38 of Exhibit 5):

> "Bourgeois democracy, with its formal equality of all citizens before the law, is in reality based on a glaring material and economic inequality of classes. By leaving inviolable, defending and strengthening the monopoly of the capitalist and landlord classes in the vital means of production, bourgeois democracy, as far as the exploited classes and especially the proletariat is concerned, converts this formal equality before the law and these democratic rights and liberties, which in practice are systematically curtailed, into a juridical fiction and, consequently, into a means for deceiving and enslaving the masses. Being the expression of the political domination of the bourgeoisie, so-called democracy is therefore capitalist democracy. * * *"

The Communist Party in the United States in its 1934 Resolution revealed the identity of its views with the above-noted view of the Communist International as to bourgeois

democracy in the following passage (pp. 57 to 58 of Exhibit 12):

> "* * * But this tremendous wealth, these gigantic productive forces, are locked away from the masses. They are the private property of a small parasitic capitalist class which has closed the factories and locked the warehouses to force growing tribute of profits. This paralysis of economy in the interests of the profit of the exploiters at the cost of starvation and degradation to the millions is enforced by the capitalist government with its police, military, courts and jails.
>
> "There is no way out of the crisis except by breaking the domination and rule of the monopolist capitalist class and taking the road pointed out by the victorious working class of the Soviet Union. There is no way out through the quackery of Roosevelt or the policies and practices of social-democracy. * * *
>
> "The Revolutionary Workers' and Farmers' Government—an alliance of the working class with other toiling sections of the population—will establish a real democracy for the overwhelming majority of the toilers and a stern dictatorship against the capitalists and their agents. * * *"

It is clear from these excerpts that it was the precept of the Communist International, and it was the view of the Communist Party in 1934, that the Government in the United States was an instrument of the small parasitic capitalist class for the suppression of the masses while wresting from the masses a tribute of profit, and that bourgeois democracy was capitalist democracy and not "true" democracy so far as the Communists were concerned.

Accordingly, when the preamble to the 1938 Constitution of the Communist Party speaks of upholding the achievements of democracy and the defending of the United States Constitution against its reactionary enemies who would destroy democracy and all popular liberties, it actually had reference to only those aspects of bourgeois democracy which permit the Communist Party's activities to continue unmolested. It is also apparent that when the preamble speaks of extending these democratic principles to their

necessary and logical conclusions, it had reference to the conclusions that the Communists believed were inevitable, that is, establishment of the common ownership of the national economy and the abolition of class divisions in society according to the principles embodied in the Communist International, which principles essentially include the revolutionary establishment of the dictatorship of the proletariat in the transition period between capitalism and socialism.

When considered in relation to the Communist condemnation of "bourgeois democracy", the declaration in Section I of Article VI of the 1938 Communist Party Constitution that the Party "opposes with all its power any clique, group, circle, faction or party which conspires or acts to subvert, undermine, weaken or overthrow any or all institutions of American democracy *whereby the majority of the American people have obtained power to determine their own destiny in any degree*" (p. 10 of Ex. 4) (Italics supplied), stands revealed in its true light. Since in the Communist view the capitalist government in the United States is simply an instrument for the suppression of the masses; which, according to the Communists, constitute the majority of the people, and since the government in the United States is said by the Communists to be dominated by a small capitalist class, it appears that the above-cited sentence from Section I, Article VI of the 1938 Communist Party Constitution actually declares the opposition of the Communist Party to the existing government which represents the capitalist class, even though the phraseology used would tend to give the contrary impression.

The further sentence in this Section I, "The Communist Party of the U. S. A., standing unqualifiedly for the right of the majority to direct the destinies of our country, will fight with all its strength against any and every effort, whether it comes from abroad or from within, to impose upon our people the arbitrary will of any selfish minority group or party or clique or conspiracy" (p. 10 of Ex. 4), also stands revealed in its true light when considered in relation to the Communist viewpoint. Since in the contemplation of the Communists the bourgeois government in the United States represents the arbitrary will of the selfish, small minority capitalist class, this sentence actually expresses the opposition of the Communist Party to the government in the United States as well as to other instru-

mentalities of the domination by the capitalist class of the masses.

It is to be noted that under the electoral system in effect in the United States, it is possible for an administration to be voted into office in the government by a minority of the popular vote. In two presidential elections, Abraham Lincoln and Woodrow Wilson who had a minority of the popular vote, were, respectively, elected President of the United States. The above-quoted position of the Communist Party in the United States would indicate that the Communist Party in 1938 declared in effect that it would fight against such a government even though it had been legally elected, if the Communist Party felt that that minority government reflected the arbitrary will of a selfish minority group or party.

It is the considered opinion of the Presiding Inspector that the preamble and Section I of Article VI of the 1938 Communist Party Constitution do not actually declare its support of democracy, in the American sense, but instead represent a veiled statement of the Communist Party's opposition to the bourgeois system of government, in accordance with the principles of the "Program of the Communist International".

It is noted that Section 5 of Article X of the 1938 Communist Party Constitution provides in part (p. 20 of Ex. 4):

> "Party members found to be * * * advocates of terrorism and violence as a method of Party procedure * * * shall be summarily dismissed from positions of responsibility, expelled from the Party and exposed before the general public."

This declaration is the only documentary evidence in respondent's favor. It would appear from this ban on the advocacy of terrorism and violence by Party members that the Communist Party in 1938 disapproved of terrorism and violence. However, if this view were accepted, then this prohibition would be contradictory to the preamble which, as has been noted, dedicates the Constitution to the establishment of the common ownership of the national economy according to the Marxian principles embodied in the Communist International. As has been established, the "Program of the Communist International" has advocated the forcible taking by the proletariat of the means of production and land owned by the bourgeoisie and the

forcible suppression of the resistance of the bourgeoisie to the "forcible invasion of the proletariat into the domain of property relationships of bourgeois society". Respondent has readily admitted the necessity for forcible crushing of the resistance of the owners of the to-be-expropriated property (p. 31). If force then is admittedly a necessary constituent of Communist action, the above-noted provision of the 1938 Communist Party Constitution must have a more limited application than it appears to have on its face. It is therefore questionable whether this interdiction of terrorism and violence *as a method of Party procedure* should be construed as a prohibition against the use of force and violence *in accomplishing the aims of the Party.*

In any event, this evidence in favor of respondent, and respondent's testimony to the effect that the Communist Party did not advocate the use of force and violence in the overthrow of the Government of the United States (pp. 25 and 31), are far outweighed by the adverse evidence, discussed above, pertinent to the Communist Party in the United States. In the opinion of the Presiding Inspector, the weight of evidence establishes that the Communist Party in the United States did believe in, advise, and advocate the overthrow by force and violence of the Government of the United States at least during the period of time from 1928 to 1939 when respondent was a member of that Party.

The final issue in this case relates to respondent's own belief in, advising, advocating, or teaching of the doctrine proscribed by the statute. Here respondent's testimony is important. However, his self-interest in the matter testified to must be considered in evaluating his testimony.

Respondent stated at length, under examination by the Presiding Inspector, what purportedly are his views with regard to the matter here at issue. In substance, respondent's views assertedly are: that the working people, if ever it were possible for them to be in power, that is, in control of the government, should nationalize the industries; but that the owners of the means of production would combat any action on the part of the government of the workers, or any government, to nationalize industry; that the government as presently constituted, and under its Constitution, is required to protect the private property rights of the people who own the means of production; that the workers and the people should try to take over the means

of production by legal and constitutional means rather than by revolution; that if they were able to do so, then, of course, they would pass the necessary laws and regulations to effect the nationalization of industry; that, however, the owner class which owns the means of production will not give in peacefully to the will of the people but instead will use whatever power it has at its disposal, whether it be the official police forces of the states or private detachments of police, or part of the Army and the Navy that they may at that time still control (pp. 24 to 25).

At this point in respondent's exposition of what he stated are his beliefs, he was directly asked whether he advocates the use of force by the proletariat to gain control of the government; if the owners of industry continued to control the Army, the Navy, and the police forces in the United States at such time as the proletariat attempted to take over the control of the government.

To this question he repied: "No. I don't advocate force and violence on the part of the proletariat to accomplish what they intend to accomplish" (p. 25). Under further interrogation, respondent testified to the effect that during the period of time that he was a member of the Communist Party in the United States, he fully agreed and subscribed to the published aims, doctrines and principles of the Party. He further testified to the effect that during that period, he also agreed and subscribed to the aims, doctrines, and principles of the Communist International, subject to the qualification that the "Program of the Communist International", which was worked out in 1928, could not be applied at any time or to any country without taking into consideration the conditions and new developments in such country; and that the reason for this qualification is that the "Program of the Communist International" talks and has in mind all the countries of Europe, America, and Asia; and that therefore some parts that can apply to China or Japan cannot apply in Greece, and some other parts or statements that can apply in Greece or Yugoslavia or Bulgaria cannot apply to the United States; for instance, the "Program" refers to peasants—and while there are peasants in many countries in Europe, in the United States there are sharecroppers, not peasants (p. 26).

Respondent was asked whether it was his view that the Communist Party in the United States could obtain the common ownership of the means of production in the United

States without armed revolution. He answered, in substance, that the Communist Party did not at the time the "Program" was adopted "believe in it or teach it in the way that some people interpret these paragraphs or programs"; that not a single Communist in the whole world "believed in or taught *what is in that document*" on this particular question (Italics supplied); that the Communist Party of the United States believed, or at least he believed, that under the conditions prevailing in the United States it was possible to establish the common ownership of the means of production by peaceful means; that the Communists were preparing to make every effort to do so by peaceful means; but that the Communists knew from living history that the owner class would not give up its power but would use force to prevent the government of the people who want to establish common ownership of the means of production from so doing; that he believed, and still believes, that the majority of the people in order to establish the law has to crush the armed violence used against the people by the powerful, greedy, and determined owner class.

Respondent further testified as to his view as follows:

> "However I want to state the Communists did believe and did teach the general contents of this program (Inspector's Note: Program of the Communist International), with many exceptions. My point is made more clearly in this same document on page 36 where the program of the Communist International says: 'The bourgeoisie resorts to every means of violence and terror to safeguard and strengthen its predatory property and its political domination. * * * Hence, the violence of the bourgeoisie can be suppressed only by the stern violence of the proletariat'.
>
> "It is not the workers or the progressive people that will start any violence" (pp. 26 to 33).

When questioned further regarding certain excerpts from the "Program of the Communist International" which appeared to the Presiding Inspector to be contradictory to respondent's expressed views, he testified:

> "I will say again that this (Inspector's Note: The excerpt quoted by me) is a general principle and cannot be applied mechanically to every situation

and to every country. But at the same time it seems to me the program of the Communist International, knowing the nature of the ruling classes, of the owner classes, and having in mind experience from history, it seems to me it warns the people not to be so naive and feel that, as soon as they go to the ballot box and vote for a certain party or a certain program and they have the majority, these owners of the means of production and the Wall Street bankers and the other rulers, will tell them, 'Gentlemen, here we are, take it over'. So that is what I think the program of the Communist International has in mind. * * * I don't expect the workers or the people who voted for certain radical change to sit down and take it. I think that they have the legal right first of all to protect to defend themselves, and, secondly, to defend their decision by voting for a radical change. I think that is what the authors * * * had in mind * * * the Communists will not propose to destroy American democracy and do not propose to decrease the amount of democracy in this country, but on the contrary to increase it. The Communists do not want to introduce dictatorship in place of democracy. On the contrary, the Communists want to do away with dictatorship altogether. And this very same 'Program of the Communist International' says so * * * on page 19, the last sentence, which reads: 'The dictatorship of finance capital is perishing to give way to the dictatorship of the proletariat'. * * * This theoretical program is to abolish the dictatorship of finance capital or the dictatorship of the owners of the means of production, and instead to establish the rule of the majority of the people which, however, under the circumstances that these rulers of finance capital will not become so easily lawful citizens but they will use all means * * * illegally to fight against the new political power of the workers that is the government already, and for this reason the government will have to use some measures, severe measures probably, if you call them dictatorial measures, against the minority, will pass laws against them, will arrest them, will punish them, because they refuse to abandon their struggle against the majority

> of the people. And since the proletariat will be the political power of the government, this situation is referred to as the 'dictatorship of the proletariat'" (pp. 32 to 34).

At this point in the expression of his views, respondent was directly asked whether he expects the proletariat to get in control of the government by ballot means or by revolutionary means. To this question respondent made the following reply which, in the opinion of the Presiding Inspector, is significant:

> * * * not I or somebody else can say at the present time what exactly will be the necessary means at the moment. But I am at the present time—I believe that still there is the possibility to do this by the ballot process, unless in the meanwhile, in the meantime, the owner class will succeed to abolish the present law and constitution of the United States in order to prevent the people from doing this, and force them to go into force and violence" (p. 34).

In relation to excerpts which the Presiding Inspector quoted as evidently showing that the Communist Party or the Communist International advocated the use of force and violence, and also in connection with his replies to his attorney's interrogation, respondent has several times repeated the above-noted contentions (pp. 40, 69, 70, 71, 72, 79, 80, 86, 90, 100 to 101, 103, 105).

Respondent testified to the effect that it was and is, his personal view that when the property of the owner class is confiscated under the direction of the Communist Party, the property owners should not be compensated, but he stated that his view is not necessarily the Communist Party view (pp. 79 to 80).

It is apparent then that respondent concedes that his belief, the Communist Party belief, and the view expressed in the "Program of the Communist International" admit the necessity for the use of force and violence in repressing the efforts of the owner class to combat the expropriation of its property. Respondent's main contention, simply stated, is that force and violence will come to be used by the proletariat under the direction of the Communist Party only *after* the Communist led "dictatorship of the proletariat" is established.

Department of Justice Record Annexed to the Return.

Opinion of the Presiding Inspector

It is the opinion of the Presiding Inspector, despite the views asserted in the record by respondent, that evidence in the record shows that the respondent has believed in and advocated the overthrow by force and violence of the Government of the United States. This opinion is based upon two grounds. The first ground relates to respondent's own testimony as to his views, and the second involves the attribution to respondent of what has been determined to be the Communist view.

With regard to the first ground, it may be noted that, even if the above-noted expressions of view are to be taken at their face value, they contain an implication germane to the issue here. Respondent has testified that it was "possible" to establish the dictatorship of the proletariat by ballot process, unless in the meantime the owner class succeeded in abolishing the present laws and constitution in order to prevent the "people" from taking away its property and so would force the "people" to use force and violence (p. 34). He has also conceded that the owner class will undoubtedly resist any efforts to expropriate its property (pp. 40 and 71). Taking respondent's view to its logical conclusion, it would appear that if the "owner class" undertook legal and constitutional procedures which convinced the Communists that it was impossible to lead the people by legal and peaceful means into taking over the property of the owner class, the Communists would then use force and violence to accomplish their objective. Respondent has directly conceded the possibility that at such time as the Communists attempt to take over the government, the "owner class" may still control the Army, the Navy, and the police forces in the United States (p. 25). Respondent's expressions of view fairly imply that he accepts the postulate that the Communists will use force and violence at such time as they become convinced of the impracticability of taking over the government, *i. e.*, the seizure of power, by legal means.

Respondent was directly asked wherein the phrase appearing in the 1934 Manifesto of the Communist Party (Ex. 12), "abolition of capitalist rule and the establishment of Socialist society", indicated a transition from one to the other by majority vote. He replied: "I will only say that the American people have a right to abolish capitalism if the majority wants and to establish socialism * * *" (p. 68). He also indicated that he and every other Com-

munist were ready to fight to prevent the United States Government from coming into the hands of a clique or to prevent the fascization of the Government (p. 88).

There is no disputing that under the democratic principles of the American system of government the majority may change the form of the government by legal and constitutional means; but it is equally clear that under the system of law in effect in the United States, the majority, or any group claiming to represent the majority, has no right to work its will in disregard of the constitution, the laws, and the legislative, judicial and executive branches of the government, even though the group claiming to be the majority is of the opinion that the existing laws and governmen represent only a minority.

Respondent could not show where in any of the documents there is to be found a tenable basis for his claimed "understanding" that the Communists advocated the use of the ballot or a parliamentary majority to effect the change from capitalist rule to a Soviet form of government, which the Communists term "dictatorship of the proletariat". With regard to this point, respondent stated: "The Communists always say that nothing can be done without the majority of the people being ready for it". He then cited the excerpt from the 1938 Constitution of the Communist Party (Ex. 4), which has already been discussed in relation to the Party, to show that the Communists have always believed it necessary to have a majority of the people on their side before attempting to overthrow the government (p. 69). It has been noted that this excerpt quoted by the respondent has the connotation of advocating the right of the majority to direct the destinies of the United States even over the decrees of a legally constituted government if the decrees of that government are, from the Communist point of view, an effort to impose on the people the arbitrary will of a selfish minority or party. As already discussed, this 1938 Communist Party constitution was dedicated to accomplishing Socialism according to the principles embodied in the Communist International, which has been found to advocate the use of force and violence to overthrow all capitalist governments in order to establish governments in which the proletariat, in alliance with the peasants, is to predominate. It is the opinion of the Presiding Inspector that the inference is clear in respondent's assertion of his belief that when the Communists feel they

have sufficient power, they will take whatever actions prove necessary, whether lawful or unlawful, to establish the "dictatorship of the proletariat". Advocacy of resort to violence and force as an alternative to accomplishing the end condemned by the statute here in question is sufficient to bring an individual within the proscription of the statute so long as such a view is held. In the opinion of the Presiding Inspector, respondent's testimony indicates that respondent is in favor of employing whatever force and violence might prove to be necessary to achieve the successful establishment of the Communist "dictatorship of the proletariat", even though he has not said so, in so many words.

This is demonstrated by respondent's answer, when pressed to show wherein the United States was excepted from the application of the statement appearing in the "Program of the Communist International" to the effect that the conquest of power by the proletariat does not mean peacefully capturing the ready-made state machinery by a parliamentary majority. He replied:

> "Because in the United States we still have the Constitution, the Bill of Rights, and no sane people can advance the idea or the theory that the *only* way to overthrow the capitalist system of the United States is by force and violence" (p. 70—Inspector's Note: Italics supplied.)

This is also shown by respondent's reply to the question as to whether he thought that the government as presently constituted in the United States would come to change so as to approve the seizure, without recompensing the owners, of private property, the rights to which are guaranteed by the Constitution. His answer was as follows (p. 80):

> "I can't foresee exactly what will happen, but I am definitely of the opinion that when the American people will decide to change the present form of government or system they will do it and at the same time they will decide to pay for the compensation or not to pay. With regard to the seizure of power, it does not say anywhere to seize power by force and violence. Everybody seizes power. The Republicans in the last election seized power in the Congress and if we succeed to have a new party in the

1948 elections of the workers, farmers, middle class, etcetera, etcetera, and win the elections, these people will seize power. To my understanding, seize power does not mean seizing power through force and violence. Sometimes it does, but not all the time."

Respondent was confronted with a record of the sworn statement that he had executed in 1930, upon the basis of which these proceedings were instituted. He testified to the effect that he did not recall making this statement but conceded that the signature appeared to be his own and that the answers appearing therein substantially represented his views (p. 35). This record of sworn statement was entered in evidence without objection by respondent's attorney (p. 36, Ex. 6). Respondent was asked to comment on the answer appearing in this interrogatory to the effect that the purpose of the Communist Party is 'to overthrow the present form of government and establish a workers' government". He replied in substance, that by this answer he meant overthrow of the Republican government as it had existed under President Hoover, and that had the Roosevelt Administration then been in power, he would not have made such a statement (pp. 36 to 37). Subsequently, respondent was confronted with certain excerpts from the 1934 Manifesto and Resolutions of the Communist Party of the U. S. A. (Ex. 12), which condemned the Roosevelt Administration. He then conceded that in 1934 he had concurred with the Communist Party view that the control of the State power by big business had to be broken (p. 74). He further stated that the 1934 estimate by the Communist Party of the Roosevelt Administration had been wrong (p. 75). Respondent's comment on the excerpts from Exhibit #16, which categorized the Roosevelt Administration as a government run by an executive committee of the capitalists and the Congress as being composed of representatives of the capitalist class, was that the view was not "altogether correct" (p. 92).

It appears clear that respondent was ready in 1934 to overthrow the then existing government of the United States, as much as he had been ready to overthrow the government of Hoover.

Even at the present time respondent's testimony indicates that force and violence are not ruled out of his belief as to the means to be employed in seizing power. He stated,

"I cannot determine the methods of taking over the Government now", in answer to a question (p. 100). In the opinion of the Presiding Inspector, there is the implication in respondent's testimony, despite his assertion to the contrary, that force and violence were within the contemplation of respondent's belief and within the contemplation of his belief as to the Communist view.

The second ground for the conclusion drawn by the Presiding Inspector that respondent has believed in and advocated the overthrow by force and violence of the Government of the United States is the consideration that it can be fairly imputed to respondent, as an intelligent individual, that he held the beliefs which have been found to be clearly evident in the documents which formed the principal bases for Communist theory. Respondent held a relatively high position in the Communist organization. For several years he participated in controlling the policies of a Communist newspaper. He actively participated in national affairs of the Communist Party of the U. S. A. and in Party organizing. According to his testimony, he was in attendance at the 1934 convention which adopted the Manifesto and Resolutions discussed above. It is a reasonable inference from the fact that respondent had been an active member of the Communist Party for over fourteen years, that he came to be well acquainted with the fundamental Communist principles. It is inconceivable that he would be able to hold the position of Secretary of an important Bureau of the Communist Party and assist in the direction of a Communist newspaper without a deep comprehension of what the Communists stood for.

Respondent was asked whether he considered himself to be a man of at least average intelligence and replied that he did (p. 80). Upon observation of respondent, the Presiding Inspector is of the opinion that he is of above average intelligence. As an intelligent individual, respondent unquestionably had to comprehend the clear import of the "Program of the Communist International" (Ex. 5) and the 1934 Manifesto and Resolutions of the Communist Party of the U. S. A. (Ex. 12), which plainly advocate the use of force and violence to accomplish the overthrow of the "bourgeois" government in the United States in the establishment of the "dictatorship of the proletariat".

Naturally, as respondent asserts, the Communists would accept the relinquishment by the owner class of their vested

from the capitalist state form to the transitional "dictatorship of the proletariat" should or can be accomplished. The "Program" propounds (pp. 34 to 35 of Exh. 5):

> "The transition from the world dictatorship of imperialism to the world dictatorship of the proletariat extends over a long period of proletarian struggles with defeats as well as victories; a period of continuous general crisis in capitalist relationships and the maturing of socialist revolutions, i.e., of proletarian civil wars against the bourgeoisie; a period of national wars and colonial rebellions which, although not in themselves revolutionary proletarian socialist movements, are nevertheless, objectively, insofar as they undermine the domination of imperialism, constituent parts of the world proletarian revolution; a period in which capitalist and socialist economic and social systems exist side by side in 'peaceful' relationships as well as in armed conflict; a period of formation of a Union of Soviet Republics; a period of wars of imperialist states against Soviet states; a period in which the ties between the Soviet states and colonial peoples become more and more closely established, etc.
>
> "Uneven economic and political development is an absolute law of capitalism. This unevenness is still more pronounced and acute in the epoch of imperialism. Hence, it follows that the international proletarian revolution cannot be conceived as a single event occurring simultaneously all over the world; at first socialism may be victorious in a few, or even in one single capitalist country. Every such proletarian victory, however, broadens the basis of the world revolution and, consequently, still further intensifies the general crisis of capitalism. Thus, the capitalist system as a whole reaches the point of its final collapse; the dictatorship of finance capital perishes and gives place to the dictatorship of the proletariat. * * *"

It is noted that here the "Program" speaks of "civil wars", "national wars and colonial rebellions", "armed conflict" between capitalist and socialist economic and social systems, socialism being "victorious", with "proletarian victory", "world revolution", marking the transi-

tion to the collapse of the capitalist system and the emergence of the "dictatorship of the proletariat". Nary a word is there here to indicate that peaceful and democratic means would be utilized to effect the transition. On the contrary, the import is entirely of force and violence.

It is further noted that the "dictatorship of the proletariat" is here indicated to be a political state form, as distinguished from an economic entity, and that the phraseology is general and specifically refers to the world and more than one capitalist country. It is not to be doubted that the terms used at this point in the "Program" encompass the United States as well as all other "capitalist countries".

The "Program" then proceeds to expond the manner in which the transition to the "dictatorship of the proletariat" is to be accomplished (p. 35 of Exh. 5):

> "* * * The conquest of power by the proletariat *is a necessary condition precedent* to the growth of socialist forms of economy * * *" (Inspector's Note: Italics supplied).

This phrase is significant. It denotes that "power" must first be conquered by the proletariat before economic changes can be accomplished.

The "Program" then declares in clear language what the "conquest of power" *does and does not* mean. It states (pp. 36 to 37 of Exh. 5):

> "The conquest of power by the proletariat does not mean peacefully 'capturing' the ready-made bourgeois state machinery by means of a parlimentary majority. The terror to safeguard and strengthen its predatory property and its political domination. Like the feudal nobility of the past, the bourgeoisie cannot abandon its historical position to the new class without a desperate and frantic struggle. Hence, the violence of the bourgeoisie can be suppressed only by the stern violence of the proletariat. The conquest of power by the proletariat is the violent overthrow of bourgeois power, the destruction of the capitalist state apparatus (bourgeois armies, police, bureaucratic heirarchy, the judiciary, parliaments, etc.), and substituting in its place new organs of proletarian power, to serve primarily as instruments for the suppression of the exploiters. * * *"

Opinion of the Presiding Inspector

As a matter of logic, if, as the "Program" states in the excerpt quoted above, the "conquest of power" does not mean taking over government by means of a parliamentary majority, it necessarily must mean something else which does not include parliamentary majority, despite the contentions of respondent. The "Program" says here in effect that the bourgeoisie cannot abandon its property and its political domination to the proletariat without a desperate and frantic struggle. Hence, there must be violence, asserts the "Program". Irrespective of whether the violence is started by the bourgeoisie or by the proletariat, the "Program" states there must be violence. It must be borne in mind that the bourgeoisie under the Constitution in effect in the United States has vested property rights which the Constitution and the laws promulgated thereunder declare must be safeguarded. The executive branch of the Government in the United States is sworn to defend the Constitution and all its instrumentalities, including the forces of the Army and Navy, would be utilized in so doing. On the other hand, no group or organization has a vested right to bring on violence to accomplish an objective which is contrary to the present constitutional provisions. The "Program" proclaims in substance that the proletariat must violently overthrow the bourgeois power, the bourgeois armies, the police, and the administrative, judicial, and legislative branches of government of the capitalist state, and *substitute* in their place *new* organs of proletarian power. Here too the "Program" speaks in terms of general applicability to all capitalist states, including the United States. In the opinion of the Presiding Inspector, the "Program" here acknowledges that the violent overthrow of the capitalist state apparatus is a necessary component of the proletariat's "conquest of power", without which the "dictatorship of the proletariat" cannot be successfully established.

The "Program" then sets forth what the dictatorship of the proletariat, the Soviet state, will accomplish after the "conquest of power". It states that the Soviet state will completely disarm the bourgeoisie and concentrate all arms in the hands of the proletariat, and that the victorious proletariat will utilize the conquest of power as a lever of economic revolution (p. 39 of Exh. 5).

It appears then that the forcible seizure of power in the capitalist state and the concentration of arms in the hands

of the proletariat precedes the economic revolution in which the property of the bourgeoisie is to be converted into the property of the proletarian state. There is no room for argument here that this precept does not apply to the United States. In the opinion of the Presiding Inspector, the general language in which the principle here enunciated is expressed, shows that the principle was of full force and application to the United States and all other capitalist countries. Further, there is not a word, not a phrase, here that implies, or hints at, the establishment of the "dictatorship of the proletariat" by peaceful means or by majority vote of the electorate. On the contrary, the entire import is of force and violence.

There follows in the "Program" an exposition of the actions to be undertaken in the economic sphere, including complete abolition of private property in land, the socialization of industry, and the removal of class divisions in society (pp. 40 to 54 of Exh. 5). Since these changes, according to the "Program", are to occur after the establishment of the "dictatorship of the proletariat", they are not germane to the issue now in question.

The "Program" then states that the uneven development of capitalism has given rise to a variety of types of capitalism and to differences in conditions in different countries. At this point it states (pp. 54 through 56 of Exh. 5):

> "* * * These circumstances make it historically inevitable *that the proletariat will come to power by a variety of ways and degrees of rapidity*; that a number of countries must pass through certain transition stages leading to the dictatorship of the proletariat and must adopt varied forms of socialist construction.
>
> "The variety of conditions and ways by which the proletariat will achieve its dictatorship in the various countries may be divided schematically into three main types.
>
> "*Countries of highly developed capitalism* (United States of America, Germany, Great Britian, etc.), having powerful productive forces, highly centralized production, with small-scale production reduced to relative insignificance, and a long established bourgeois-democratic political system. In such countries the fundamental political demand of the pro-

gram is direct transition to the dictatorship of the proletariat. In the economic sphere, the most charcateristic demands are: expropriation of the whole of large-scale industry; organization of a large number of state Soviet farms and, in contrast to this, a relatively small portion of the land to be transferred to the peasantry; unregulated market relations to be given comparatively small scope; rapid rate of socialist development generally, and of collectivization of peasant farming in particular.

"*Countries with a medium development of capitalism* (Spain, Portugal, Poland, Hungary, the Balkan countries, etc.) * * *.

"*Colonial and semi-colonial countries* (China, India, etc.), and *dependent countries* (Argentina, Brazil, etc.) * * *

"*In still more backward countries* (as in some parts of Africa) * * *."

(Italics in original)

This excerpt is important in relation to two contentions advanced by the respondent. He has argued that the reference here to the proletariat coming into power by a variety of ways implies the possibility of the "dictatorship of the proletariat" coming into being in the United States peacefully by the use of the ballot and parliamentary majority (p. 71). This argument of respondent is untenable because the "Program" goes on to state, after the excerpt that respondent quoted (on p. 71), specifically in relation to countries such as the United States, "the fundamental political demand of the program is direct transition to the dictatorship of the proletariat." As already discussed, the "Program" itself rejects the use of parliamentary majorities to accomplish the institution of the "dictatorship of the proletariat."

The other argument advanced by respondent in regard to this excerpt is that the "Program of the Communist International" has only limited application to the United States. This argument likewise must be rejected because, as has been pointed out, the specific references in the "Program" to the United States include this country in the realm of fi-

nance capitalist countries in which there is to be a direct transition by the conquest of power to the dictatorship of the proletariat. This latter argument appears to the Presiding Inspector to be completely specious because the "Program of the Communist International" is couched in terms of general applicability to all capitalist countries and the "Program" specifically refers to the United States as one such "capitalist country."

There is a good deal more in the "Program of the Communist International" which follows along the line already discussed. Throughout the document there is strong language, in addition to that already noted, such as: "civil war," "bold and determined mass action," "revolutionary struggle for power," "forcible overthrow of all the existing social conditions," "let the ruling class tremble at a Communist revolution."

A careful study of the "Program" fails to disclose any language fairly susceptible of meaning the advocacy of peaceful means to accomplish the change from a capitalist state to the "dictatorship of the proletariat," nor is there any indication that the "Program" accepts the premise that it is even possible to establish the "dictatorship of the proletariat" by lawful and peaceable means.

The chapter in the "Program" on the strategy and tactics of the Communist International in the struggle for the "dictatorship of the proletariat" clearly indicates that the use of force and violence are contemplated in overthrowing the existing governments in all capitalist countries, including the United States (Chapter VI, pp. 68 to 85 of Ex. #5). To begin with, in discussing ideologies among the working class inimical to Communism, the "Program" refers to the American Federation of Labor which is a domestic organization in the United States (p. 69 of Ex. 5). It may be noted from the introduction to the "Program" that the "Program" sets forth the following (p. 10 of Ex. 5):

> "* * * Basing itself on the experience of the revolutionary labor movement on all continents and of all peoples, the Communist International, in its theoretical and practical work, stands wholly and unreservedly upon the ground of *revolutionary Marxism* and its further development, *Leninism*, which is nothing else but Marxism of the epoch of imperialism and proletarian revolution * * *." (Italics in original.)

Opinion of the Presiding Inspector

The "Program", which, as above noted from the introduction, states that the Communists stand wholly and unreservedly upon the ground of revolutionary Marxism, asserts that the social democrats or "socialists" have in the sphere of theory utterly and completely betrayed Marxism. On this point it sets forth (pp. 70 to 71 of Ex. 5):

> "* * * it (Inspector's Note: Social Democracy) has substituted in place of the Marxian theory of the contradictions of capitalism, the bourgeois theory of its harmonious development; it has pigeonholed the theory of crises and of the pauperization of the proletariat; it has turned the flaming and redoubtable theory of class struggle into the mean advocacy of class peace; it has exchanged the theory of growing class antagonisms for the petty-bourgeois fairy-tale about the 'democratization' of capital; in place of the theory of the inevitability of war under capitalism it has substituted the bourgeois deceit of pacifism and the lying propaganda of 'ultra-imperialism'; *it has exchanged the theory of the revolutionary downfall of capitalism for the counterfeit coinage of 'sound' capitalism transforming itself peacefully into socialism; it has replaced revolution by evolution,* the destruction of the bourgeois state by its active upbuilding, the theory of proletarian dictatorship by the theory of coalition with the bourgeoisie, the doctrine of international proletarian solidarity—by preaching defense of the imperialist fatherland; for Marxian dialectical materialism it has substituted the idealist philosophy and is now engaged in picking up the crumbs of religion that fall from the table of the bourgeoisie * * *." (Inspector's Note: Italics supplied.)

This excerpt makes it crystal clear that the "Program" in so contrasting between the Communists and the Socialists declares that the peaceful transformation of capitalism into socialism is a false theory and that the Communists stand on the theory of the revolutionary, as opposed to peaceful, change from capitalism to socialism. In the opinion of the Presiding Inspector, this contrast is positive evidence that the "Program of the Communist International"

uses the term "revolutionary" as opposed to "peaceful". This is important in relation to respondent's asserted interpretation of the term "revolutionary", and his statements in the record distinguishing between "Socialism" on the one hand and "Communism" on the other.

Returning to examination of the strategy and tactics laid down by the "Program" for implementation by the Sections of the Communist International, it appears that an outline of the "fundamental strategic aims and tactics," as stated in the "Program", would be helpful in determining whether it was contemplated achieving the dictatorship of the proletariat by means of a parliamentary majority or by means of the use of the ballot. The fundamental strategic aims are stated by the "Program" to be:

(1) Extension of the influence of the Communist Party over the majority of the members of its own class, the proletariat;

(2) Acquisition by the proletariat of hegemony over wide sections of the toiling masses;

(3) Rallying of the broad masses of the working class, and of the peasantry in the colonies around the banner of the revolution;

(4) Support of every movement against imperialist oppression in the colonies, semi-colonies, and dependencies (for example, in Latin America);

(5) Rendering of systematic aid to the colonial revolutionary movement by the Communist Parties in the imperialist countries; and

(6) The carrying on of a bold and consistent struggle by the Communist Parties in the colonial and semi-colonial countries against foreign imperialism, and propaganda in favor of friendship and unity with the proletariat in imperialist countries (pp. 77 to 79 of Ex. 5).

None of these strategic aims includes achievement of legal and constitutional change of the government in any country to the "dictatorship of the proletariat." The first two stated aims, as noted above, speak of control by the Communist Parties of the proletariat, which, in turn, is to acquire hegemony over wide sections of the toiling masses,

but by no stretch of the imagination can these aims be construed to include obtaining a voting majority of the electorate. If such were a strategic aim of the "Program", unquestionably it would have been so stated.

With regard to tactics, the "Program" specifically states (p. 80 of Ex. 5):

> "* * * In determining its line of *tactics* (Italics in original), each Communist Party must take into account the concrete internal and external situation, the correlation of class forces, the degree of stability and strength of the bourgeoisie, the degree of preparedness of the proletariat, the position taken up by the various intermediary strata in its country, etc. The Party determines its slogans and methods of struggle in accordance with these circumstances, with the view to organizing and mobilizing the masses on the broadest possible scale and *on the highest possible level of this struggle* * * *." (Inspector's Note: Italics supplied.)

This significant paragraph clearly indicates that *each* Communist Party is to take advantage opportunistically of the internal and external situation of each country and use tactics with a view *to mobilizing the masses.* That the term "mobilizing" is here used in the military sense of "preparing for hostilities" is evidenced by the paragraphs that follow which clearly outline the actions to be taken by each Communist Party when the particular country appears to be in a condition favorable to revolution. The "Program" states (pp. 80 to 81 of Ex. 5):

> "When a revolutionary situation is developing, the Party advances certain transitional slogans and partial demands corresponding to the concrete situation; but these demands and slogans must be bent to the revolutionary aim of capturing power and of overthrowing bourgeois capitalist society. The Party must neither stand aloof from the daily needs and struggle of the working class nor confine its activities exclusively to them. The task of the Party is to utilize these minor every-day needs as a *starting point* (Italics in original) from which to lead the working class to the *revolutionary struggle for power* (Italics in original).

Opinion of the Presiding Inspector

"In the event of a *revolutionary upsurge,* if the ruling classes are disorganized, the masses are in a state of revolutionary ferment and the intermediary strata are inclining towards the proletariat, if the masses are ready for action and for sacrifice, the Party of the proletariat is confronted with the task of leading the masses to a direct attack upon the bourgeois state. This it does by carrying on propaganda in favor of increasingly radical transitional slogans (for Soviets, workers' control of industry, for peasant committees for the seizure of the big landed properties, for disarming the bourgeoisie and arming the proletariat, etc.), and by organizing *mass action,* upon which all branches of the Party agitation and propaganda, including parliamentary activity, must be concentrated. This mass action includes: a combination of strikes and demonstrations; a combination of strikes and armed demonstrations, and finally, the general strike conjointly with armed insurrection against the state power of the bourgeoisie. The latter form of struggle, which is the supreme form, must be conducted according to the rules of military science; it presupposes a plan of campaign, offensive fighting operations and unbounded devotion and heroism on the part of the proletariat. An absolutely essential prerequisite for this form of action is the organization of the broad masses into militant units, which, by their very form, embrace and set into action the largest possible numbers of toilers (Councils of Workers' Deputies, Soldiers' Councils, etc.), and intensified revolutionary work in the army and the navy.

"In passing over to new and more radical slogans, the Parties must be guided by the fundamental role of the political tactics of Leninism, which call for ability to lead the masses to revolutionary positions in such a manner that the masses may, by their own experience, convince themselves of the correctness of the Party line. Failure to observe this rule must inevitably lead to isolation from the masses, to putschism, to the indeological (sic) degeneration of communism into 'Leftist' dogmatism and to petty-bourgeois 'revolutionary' adventurism.

> No less dangerous is the failure to take advantage of the culminating point in the development of the revolutionary situation, when the Party of the proletariat is called upon to conduct a bold and determined attack upon the enemy. To allow that opportunity to slip by and to fail to start rebellion at that point, means to allow the initiative to pass to the enemy and to doom the revolution to defeat * * *."
>
> (Inspector's Note: Italics in the original.)

It cannot be doubted that here the "Program" intends to mean civil insurrection, or a rebellion, led by the Communist Party. If the "Program" contemplated the use of a parliamentary majority to achieve its aim, it is indeed strange that here it is entirely silent upon this point.

The "Program," after setting forth the tactics to be used when a revolutionary situation is developing, then states, in substance, that where a country is not ripe for revolution, the Communist Party must advance *partial* slogans and demands that correspond to the everyday needs of the toilers, linking them up with the fundamental tasks of the Communist International, in other words, leading the masses by advocacy of the fulfillment of their immediate needs to support the fundamental tasks of the Communist International (p. 81 of Ex. 5).

The "Program" asserts (p. 82 of Ex. 5):

> "* * * In universally championing the current everyday needs of the masses of the workers and of the toilers generally, in utilizing the bourgeois parliament as a platform for revolutionary agitation and propaganda, and subordinating the partial tasks to the struggle for the dictatorship of the proletariat, the Parties of the Communist International advance partial demands and slogans * * *."

Here the "Program" specifically states that the bourgeois parliament (or Congress) is to be used as a platform for revolutionary agitation and propaganda. It does not state that the parliament is to be used for the passage of laws or the institution of constitutional amendments to effectuate the "dictatorship of the proletariat."

The "Program" then proceeds to enumerate the main spheres for the advancement of partial demands and slogans. In outline these spheres are:

(1) In the sphere of labor, the fight against the trustified capitalist offensive, wage questions, the working day, compulsory arbitration, unemployment, which grow into

(2) Questions of the general political struggle, such as big industrial conflicts, fight for the right to organize, right to strike, etc.;

(3) In the sphere of politics proper, taxation, high cost of living, fascism, persecution of revolutionary parties, white terror and current politics generally;

(4) In the sphere of world politics, attitude towards the U.S.S.R. and colonial revolution; struggle against imperialism and the war danger, and systematic preparation for the fight against imperialist war; and

(5) In the sphere of peasant problems, taxation, peasant mortgage indebtedness, struggle against usurer's capital, the land hunger of the peasant small holders, rent, and the crop sharing system, which broaden out to confiscation of large estates, and workers' and peasants' government (pp. 82 to 83 of Ex. 5).

The "Program" then goes on to discuss the partial demands of, and work among, proletarian and peasant youth, and working women and peasant women, and the demands and slogans in the struggle against colonial oppression, which are not pertinent here (p. 83 of Ex. 5).

It is clear from the Program's exposition of the partial slogans and tactics to be used by each Communist Party leading up to the revolutionary situation, that achievement of a majority of the electorate and constitutional change of the government are not among them. It is also apparent that these intermediary tactics are intended only to lead up to the revolutionary situation, in which the tactics are to be as quoted above.

There is no basis here for the contention advanced by respondent that the portions of the "Program of the Communist International" which are applicable to the United

States do not advocate the overthrow by force or violence of the Government of the United States.

It is the opinion of the Presiding Inspector, based upon careful study of the document as an entity, that the doctrines and precepts contained in the "Program of the Communist International" constitute belief in, advocacy of, and the advising of the overthrow by force and violence of the Government of the United States and the governments of all other "capitalist" countries. The evidence discussed above establishes that after entry respondent was affiliated from 1925 to 1939 with an organization that, during the period from 1928 to 1939, at the very least, believed in, advocated, and advised the overthrow by force and violence of the Government of the United States.

There is further evidence in the record to confirm this conclusion. Respondent testified that he was familiar with the fact that the Communist Party of the U. S. A. has published a magazine entitled "The Communist", but that he did not know whether this magazine was an official Party publication (p. 51). He was shown a copy of the May, 1934 edition of this magazine and indicated that he had no reason to doubt its authenticity. He was then shown the Table of Contents page of this edition, whereon it is indicated that the magazine was published by the Communist Party of the U. S. A.; and whereon it appears that an article entitled "The Eighth Convention of our Party" was a Party editorial. This article was entered in evidence over the objection of respondent's attorney (pp. 52 to 53—Ex. 10). The Presiding Inspector finds no merit in the attorney's objection and overrules it for the reasons noted in the margin.[1]

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1. Attorney's objection is overruled on the following grounds: The fact that respondent has admitted that the document is an editorial of the magazine "The Communist", which respondent has admitted was published by the Communist Party of the U. S. A., sufficiently establishes it to be an official document of the Communist Party of the U. S. A.; it is irrelevant whether or not the article was drafted to meet a then existing situation since in either event it may be considered in connection with respondent's case; the fact that the document may have become obsolete in 1938 has no pertinency to its application to respondent's case for the period 1934 to 1938; its introduction in evidence is not improper, and its relevancy and competency are demonstrated by the reference to it in this opinion; the question of the constitutionality of the statute is beyond the scope of these administrative proceedings and since these proceedings are administrative, the *ex post facto* restriction does not apply. The attorney's further objection was overruled at the hearing for the reason stated in the record.

This editorial article indicates that the Eighth Convention of the Communist Party of the U. S. A. had endorsed a Thesis of the E. C. C. I. (Ex. 10). Respondent conceded that the Thesis of the E. C. C. I., referred to in this editorial, had been adopted in December, 1933 by the Thirteenth Plenum of the Executive Committee of the Communist International.

A photostatic copy of the Thesis of the Thirteenth Plenum of the Executive Committee of the Communist International, as it appears in the February, 1934 edition of the magazine "The Communist" was exhibited to respondent. His attorney conceded in respondent's behalf that this photostat was a true copy of the article appearing in the February, 1934 edition of the magazine (p. 57). This photostatic copy of the Thesis was entered in evidence over the objection of respondent's attorney (pp. 57 to 58—Ex. 11). The attorney's objection is overruled on the grounds set forth in the margin.[2]

This Thesis discusses the general crisis which existed all over the world, including the United States, in December 1933, and sets forth its revolutionary solution to the crisis. It states (p. 143 of Ex. 11):

> "* * * 1. The Communist Parties must, with all resoluteness, raise before the masses the task of the revolutionary way out of the crisis of capitalism, "Against the quack recipes of the fascists and the social-fascists for saving decaying capitalism, the Communists must prove to the masses that the ills of capitalism are incurable. Therefore, the Communists, while defending in every way the demands of the toilers, must untiringly disclose to the masses who are suffering from starvation and exploitation the whole truth, viz., that their catastrophic conditions will grow worse and worse under the blows of the continuous offensive of capitalism, until the toilers succeed in uniting their forces for a counter-blow and the crushing of bourgeois rule.

2. Attorney's objection is overruled on the following grounds: The fact that the organization is no longer in existence has no bearing; the fact that the document was drafted to meet a then existing situation is likewise irrelevant; whether or not the document represented basic doctrine if is admissible so long as it represented doctrine which is admitted; the document's competency, relevancy and materiality are shown above.

property rights, to which the entire philosophy of American government is dedicated. But the Communist leaders necessarily had to recognize that the government in the United States is bound to defend private property rights, which are guaranteed by the Constitution of the United States. Respondent's contention that the abolishment of private property rights would be effectuated only after the Communists seized power is an effort to conceal the fact that the Communist aim actually is illegal. The Constitution of the Communist International recognizes the fact that the Communist Parties may at any time be declared illegal. It makes provisions for cases wherein Parties exist illegally (Par. 5, Section I, p. 88 of Ex. #5). It states that "the Communist Parties must be prepared for transition to illegal conditions. The E. C. C. I. must render the Parties concerned assistance in their preparations for transition to illegal conditions" (Par. 36 of Section V, p. 94 of Ex. #5).

Respondent's argument loses sight of the fact that actions taken in defense of private property rights are legal in the United States at the present time and are called for by the Constitution, whereas any overt effort threatening such property rights is illegal. The "Program of the Communist International" sensibly recognizes that its advocacy of the seizure of power and the expropriation of property thereafter are illegal actions which necessarily will be combated by the instruments of the "capitalist" states. Therefore, when the seizure of State power and the expropriation of property are advocated, such advocacy necessarily contemplates the use of force and violence to accomplish the objective; yet respondent would want it to appear by his contentions that if there comes to be force and violence it is the fault of the capitalists for trying to maintain their vested property rights, and not the outcome of the Communist aims and their efforts to effectuate those aims.

It is considered that the reasoning of the court in the case of *U. S. ex rel. Abern* vs. *Wallis* (268 F. 413, D. C. S. D. N. Y., 1920), is pertinent here. The court there stated at page 416:

> "* * * If those who support the Communist Party in its present declaration of principles hope

for success—and I must assume that they have such a hope—I cannot do otherwise than conclude that they must contemplate the employment of force and violence.

"In other words, I am unable to perceive how the expropriation of private property can be accomplished without the employment of forbidden instrumentalities. I say this because of the fact that up to the time of the capture and destruction of the present government, its officers will be, as they are now, charged with the protection of property rights, and I cannot imagine that such officers and those whose property the Communists hope to take, will meekly capitulate the moment the Communists demand a transference to them of all such rights. Should such a transfer be demanded and refused, * * * could it for a moment be supposed that the Communists, if they considered their strength sufficient, would hesitate and seek peaceful means of persuasion. It seems to me that they would unquestionably exert whatever coercion, and employ whatever force and violence was necessary to the achievement of their success. * * *"

In the opinion of the Presiding Inspector, respondent's admission that he believed in the principles contained in the "Program of the Communist International" with qualifications, that in his view the Communist Party in the United States had as its ultimate objective the establishment of common ownership of the national economy through the general principles embodied in the Communist International and that the Communists accepted the general intention and guidance of the "Program", without necessarily abiding mechanically by every phrase and paragraph (pp. 26, 28 and 35), conclusively establish that his true belief included advocacy of the overthrow by force and violence of the Government of the United States. He has utterly failed to show satisfactorily that the "Program of the Communist International" in any way advocated peaceful and legal means to accomplish the establishment of the dictatorship of the proletariat. The respondent cited an excerpt from page 54 of the "Program of the Communist International" (Ex. 5) as the basis for his asserted view that the violence on the part of the proletariat will come.

to be used only *after* they have already come into power (p. 71). Yet it is this very same passage which, in the second paragraph following, states in reference to the United States and other countries of highly developed capitalism, that the fundamental political demand of the "Program" is direct transition to the dictatorship of the proletariat (p. 55 of Ex. 5).

It is the opinion of the Presiding Inspector, based on observation of the notes utilized by respondent and his manner of response, that respondent's contentions in the record, which are discussed above, are not entirely his personal beliefs, but represent, at least partially, self-serving arguments which have been advanced to meet as far as possible that evidence which is adverse to him. For this reason, respondent's tacit concessions against his own interest, and the imputation to him of what have been determined to be the fundamental Communist principles, evident in the important Communist publications, have been given considerable weight in determining respondent's actual beliefs, whereas his assertions in his own interest warrant critical examination.

Respondent has advanced several contentions that appear to be "argument for the record" rather than the seriously held beliefs of an intelligent person. He has stated that the "Program of the Communist International" has only partial application to the United States and cited as an example, that whereas the "Program" refers to peasants there are no peasants in the United States, only sharecroppers (p. 26). This example is patently specious. It is noted that the "Program of the Communist International" in referring to the "peasantry" speaks of winning over "all the exploited and toiling strata of the country-side" (p. 49 of Ex. 5). Obviously, such a broad and inclusive term includes "sharecroppers". The Presiding Inspector considers that respondent, as an intelligent individual, is bound to have comprehended that the broad scope of the language and phraseology of the "Program of the Communist International" evidences its universal application to all capitalist countries rather than a limitation of its range.

Respondent contended that the Communists do not propose to destroy American democracy and do not propose to decrease the amount of democracy in the United States, but on the contrary to increase it (pp. 33 and 106). As has

en discussed, the "democracy" of the dictatorship of the oletariat is entirely alien to the American conception democracy. The "Program of the Communist Inter-tional" has termed "bourgeois" or "capitalist" democ-cy as a juridical fiction and a means of deceiving and slaving the masses and as the expression of the political mination of the bourgeoisie (p. 38 of Ex. 5).

Respondent has argued that the Communist Party does t want to rule out some individuals or classes of voters today from the right to vote (p. 110). The "Program the Communist International" clearly states that the etatorship of the proletariat is to deprive its class emies, the owner class and the exploiters, of political hts and under special conditions may grant the prole-riat a number of temporary advantages over the rest the population (p. 37 of Ex. 5).

The respondent has asserted that the Communist Party es not necessarily call for the deprivation of the owners the means of production from the right to vote or hold ice (p. 110). Yet the "Program of the Communist Inter-tional", as just noted, specifically sets forth that the class emies of the proletarian state are to be disarmed and ppressed and that the deprivation of political rights and e partial restriction of liberty are to be used as temporary easures to prevent the exploiters from defending or re-ring their privileges (p. 37 of Ex. 5).

Under questioning by his attorney, respondent testified the effect that the effectuation of changes by peaceful d constitutional means is in accord with the general tradi-ns of the Communist movement, taking it on a world le and over a whole century of time (p. 104). Yet on e next page he admits that the "Program of the Com-nist International" counseled the Communists to con-rt imperialist war into civil war (p. 105). With regard this latter matter, respondent very simply reconciled e precept of conversion of imperialist war into civil war comparing it with the action of the Allied governments World War II in calling for civil war in the Axis coun-es by the people there to overthrow the Axis govern-nts. Here respondent indirectly conceded the very mat-r at issue. By likening the above-noted Communist pre-pt to the Allied incitement of the peoples subject to e Axis dictatorships to revolution, he, in effect, admits at the Communists advocate civil war in the United States

whenever it would suit the purpose of the Communists, whenever a United States involvement in a foreign war should produce an opportunity for a successful civil insurrection led by the Communists in the United States against this country's government.

Respondent's explanation of the differences between Communist and Socialist theory (pp. 37 and 38) appears to be so much "argument for the record". The Communist view as to the theoretical difference between the Communists and the Socialists is clearly evident from the excerpts already quoted as to this point from the "Program of the Communist International".

It is additionally noted that the nature of the Communist organization was such that the principles found to have been held by that organization may equitably be ascribed to respondent by reason of his activity in positions of trust and confidence therein. During the time that respondent was a member of the Communist Party in the United States, membership in that Party was open not only to citizens but also to aliens who accepted the program and rules of the Communist Party and of the Communist International, who joined one of the basic units of the Party and abided by all the decisions of the Party and of the Communist International (p. 87 or Ex. 5; pp. 7 and 29 of Ex. 4).

A member of the Party was obliged to carry out the orders of his superiors, whether or not he agreed with them, or be ejected from the Party. A person who signified his attachment to the Communist Party in the United States by enrolling at the polls as a Communist did not thereby become a member of the Communist Party. In this respect the Communist Party was totally unlike any of the domestic political parties in the United States. As has been noted, the Communist organization was on an international scale, with the Communist Party in the United States governed and controlled by a constitution and a program emanating from an international body housed abroad (p. 87 of Ex. 5). A member of the Communist Party in the United States could not move from the United States to another country and remain a member of the Communist Party without the approval of the Central Committee o fthe Communist Party in the United States (p. 94 of Ex. 5).

As has been established in the record, the Communist Party was an organization bound by strict rules of discipline, including prompt execution of all decisions. It is

clear that respondent could not have risen to a position of considerable authority in the Communist Party, and remain in authority for a protracted period of time, without adhering to the fundamental principles of the Communist organization.

It is therefore concluded, upon the basis of the grounds stated above, that since at least 1928 respondent has believed in, and advocated the overthrow by force and violence of the Government of the United States.

II. PROPOSED FINDINGS OF FACT—AS TO DEPORTABILITY:

Upon the basis of all the evidence presented, it is found:

(1) That respondent is an alien, a native and citizen of Greece;

(2) That respondent's sole entry to the United States was effected on March 7, 1916 at the port of New York, ex SS "Vasilefs Constantinos", when he was admitted to the United States for permanent residence;

(3) That from 1925 to 1939 respondent was affiliated with the Communist International, an organization which during the period from 1928 to 1939 believed in, advised, and advocated the overthrow by force and violence of the Government of the United States;

(4) That from 1925 to 1939 respondent was a member in good standing of the Communist Party in the United States, an organization which, during the period from 1928 to 1939, believed in, advised and advocated the overthrow by force and violence of the Government of the United States;

(5) That respondent has since at least 1928 believed in and advocated the overthrow by force or violence of the Government of the United States.

III. PROPOSED CONCLUSIONS OF LAW—AS TO DEPORTABILITY:

Upon the basis of the foregoing findings of fact, it is concluded:

(1) That under the Act of October 16, 1918, as amended, respondent is subject to deportation, in

that he is found to have been, after entry, a member of the following class set forth in Section 1 of said Act: An alien who is affiliated with an organization, association, society, or group that believes in, advises, advocates or teaches the overthrow by force or violence of the Government of the United States;

(2) That under the Act of October 16, 1918, as amended, respondent is subject to deportation, in that he is found to have been, after entry, a member of the following class set forth in Section 1 of said Act: An alien who is a member of an organization, association, society, or group that believes in, advises, advocates or teaches the overthrow by force or violence of the Government of the United States;

(3) That under the Act of October 16, 1918, as amended, respondent is subject to deportation, in that he is found to have been, after entry, a member of the following class set forth in Section 1 of said Act: An alien who believes in, advises, advocates or teaches the overthrow by force or violence of the Government of the United States;

(4) That respondent is not subject to deportation on the ground that he has been found in the United States in violation of the Act of October 16, 1918, as amended by the Act of June 5, 1920, in that he is a member of, or affiliated with an organization, association, society, or group that believes in, advises, advocates or teaches the overthrow by force or violence of the Government of the United States or of all forms of law;

(5) That under Section 20 of the Immigration Act of February 5, 1917, respondent is deportable to Greece at Government expense.

IV. Other Factors:

Respondent is deportable on a ground specified in Section 19(d) of the Immigration Act of 1917, as amended. Hence, he is barred from being considered for discretionary relief under Section 19(c) of said Act. Consequently, he

was not permitted to apply for such relief. The Act under which respondent has been found deportable contains its own deportation provision, independently of the Immigration Act of 1917. Hence the discretion accorded the Attorney General under the 7th Proviso to Section 3 of the Immigration Act of 1917 cannot be exercised in respondent's behalf. The statute here involved further contains a clause barring anyone arrested and deported pursuant to the provisions of the statute from returning to or entering the United States and provides for imprisonment if reentry is made or attempted. Accordingly, it appears that there is no administrative discretion which may be exercised in this case.

Respondent has lived in the United States over thirty years, having entered the United States when he was thirteen years old. He is married to a United States citizen and has two United States born children (pp. 41 through 43—Exhibits 7, 8 and 9). Respondent's wife and children are entirely dependent upon him for support (p. 43). Respondent has one sister in the United States and a brother and a sister in Greece (p. 44). He complied with the Alien Registration and Selective Service requirements (pp. 44 to 45).

Respondent's case involves considerable hardship because of his long residence in the United States and the dependence of his wife and two children upon him for support.

V. PROPOSED ORDER:

It is recommended that the alien respondent be deported to Greece at Government expense on the charges:

That under the Act of October 16, 1918, as amended, he is found to have been, after entry, a member of the following class set forth in Section 1 of said Act: An alien who is affiliated with an organization, association, society, or group that believes in, advises, advocates or teaches the overthrow by force or violence of the Government of the United States;

That under the Act of October 16, 1918, as amended, he is found to have been, after entry, a member of the following class set forth in Section 1 of said Act: An alien who is a member of an organization, association, society, or group that believes

in, advises, advocates or teaches the overthrow by force of violence of the Government of the United States;

That under the Act of October 16, 1918, as amended, he is found to have been, after entry, a member of the following class set forth in Section 1 of said Act: An alien who believes in, advises, advocates or teaches the overthrow by force or violence of the Government of the United States.

GILBERT ZIMMERMAN,
Presiding Inspector.

March 11, 1947.

GZ:VHG

D 2/25/47
through
2/28/47

Exceptions to the Opinion of the Presiding Inspector

UNITED STATES DEPARTMENT OF JUSTICE

[SAME TITLE]

Pursuant to 8 C.F.R. 150.7(e), exceptions are hereby taken on behalf of the above-named respondent to the opinion of the Presiding Inspector in the above-named case.

I. DISCUSSION OF THE EVIDENCE—AS TO DEPORTABILITY

Exception is taken to the Presiding Inspector's discussion. An appropriate discussion of the evidence as to deportability in behalf of respondent appears in the accompanying brief.

II. PROPOSED FINDINGS OF FACT—AS TO DEPORTABILITY

Respondent excepts to Proposed Finding No. (3) and to the failure of the Presiding Inspector to find that:

(3) From 1925 to 1939 respondent was affiliated with the Communist International, an organization which during the period from 1928 to 1939 did not believe in, advise, or advocate the overthrow by force and violence of the Government of the United States.

Respondent excepts to Proposed Finding No. (4) and to the failure of the Presiding Inspector to find that:

(4) From 1925 to 1939 respondent was a member in good standing of the Communist Party in the United States, an organization which, during the period from 1928 to 1939, did not believe in, advise, or advocate the overthrow by force and violence of the Government of the United States.

Respondent excepts to Proposed Finding No. (5) and to the failure of the Presiding Inspector to propose the following finding:

(5) That respondent has never believed in or advocated the overthrow by force or violence the Government of the United States.

III. Proposed Conclusions of Law—as to Deportability

Respondent excepts to Proposed Conclusion of Law No. (1) and to the failure of the Presiding Inspector to propose the following Conclusion of Law:

(1) That respondent is not subject to deportation under the Act of October 16, 1918, as amended, in that he has not been found to have been, after entry, a member of the following class set forth in Section 1 of said Act: An alien who is affiliated with an organization, association, society, or group that believes in, advises, advocates or teaches the overthrow by force or violence the Government of the United States.

Respondent excepts to Proposed Conclusion of Law No. (2) and to the failure of the Presiding Inspector to propose the following Conclusion of Law:

Exceptions to the Opinion of the Presiding Inspector

(2) That the respondent is not subject to deportation under the Act of October 16, 1918, as amended, in that he is not found to have been, after entry, a member of the following class set forth in Section 1 of said Act: An alien who is a member of an organization, association, society, or group that believes in, advises, advocates or teaches the overthrow by force or violence of the Government of the United States.

Respondent excepts to Proposed Conclusion of Law No. (3) and to the failure of the Presiding Inspector to propose the following Conclusion of Law:

(3) That respondent is not subject to deportation under the Act of October 16, 1918, as amended, in that he has not been found to have been, after entry, a member of the following class set forth in Section 1 of said Act: An alien who believes in, advises, advocates or teaches the overthrow by force or violence of the Government of the United States.

Respondent excepts to Proposed Conclusion of Law No. (5) and to the failure of the Presiding Inspector to propose the following Conclusion of Law:

(5) That under Section 20 of the Immigration Act of February 5, 1917 respondent is not deportable.

IV. Other Factors

In view of the exceptions to the Proposed Findings and Conclusions the first paragraph of the Opinion of the Presiding Inspector is immaterial, and for that reason we do not discuss the same.

V. Proposed Order

Respondent excepts to the Proposed Order of the Presiding Inspector and to the failure of the Presiding Inspector to propose the following Order:

That the warrant of arrest issued on April 12, 1930, be canceled and the respondent discharged, and that the Deportation Section inform the Naturalization Service that there is no objection to the naturalization of the respondent.

Order Reopening Hearing

August 5, 1947

In accordance with the provisions of Part 150.8, Title 8, C.F.R. it is hereby directed that the case of Peter Harisiades, also known as Panagiotis Hatzilias; Pete Hagelias; Pete Harrison, be reopened for the proper authentication of documents already introduced in evidence for the reception of additional evidence and, should the facts warrant, for the placing of the following additional charges:

The Act of October 16, 1918, as amended, in that he is found to have been after entry, a member of the following class, set forth in Section I of said Act: an alien who is a member of and affiliated with an organization, association, society, and group that advises, advocates, and teaches the overthrow by force and violence of the Government of the United States.

The Act of October 16, 1918, as amended, in that he is found to have been, after entry, a member of the following class set forth in Section I of said Act: and alien who is a member of and affiliated with an organization, association, society, and group, that writes, circulates, distributes, prints, publishes, and displays, and causes to be written, circulated, distributed, printed, published, and displayed, and that has in its possession for the purpose of circulation, distribution, publication, issue, and display, written and printed matter advising, advocating, and teaching the overthrow by force and violence of the Government of the United States.

S/ Ugo Carusi,
Ugo Carusi,
Commissioner.

Petition of Carol King Opposing Designation of Arthur J. Phelan as Presiding Inspector and John P. Boyd as Examining Inspector

[SAME TITLE]

The petition of the above-named respondent by his attorney, Carol King, sets forth and alleges:

On or about April 12, 1939 a warrant for the arrest of the above-named respondent issued, charging that he had been found in the United States in violation of the Act of October 16, 1918, as amended by the Act of June 5, 1920, for the following among other reasons:

> That he is a member of or affiliated with an organization, association, society, or group that believes in, advises, advocates, or teaches the overthrow by force or violence of the Government of the United States or of all forms of law.

Thereafter hearings were conducted on the said charge, and additional charges were lodged against the respondent, to wit, that he was in the United States in violation of the Immigration Act of October 16, 1918, as amended, in that he was a member of one of the following classes, an alien who after entry is a member of or affiliated with an organization, association, society or group that believes in, advises, advocates, or teaches the overthrow by force and violence of the Government of the United States.

Hearings on the charges in the original warrant of arrest and the lodged charges were completed during the month of January 1947. The Presiding Inspector, Gilbert Zimmerman, filed a memorandum to which exceptions were taken in May of 1947, and thereafter a brief was filed in behalf of the respondent.

On or about September 3, 1947 the Acting Chief of the Expulsion Section of the Immigration and Naturalization Service, New York District, informed the respondent that the hearing in his case had been ordered reopened by the Commissioner of Immigration and Naturalization for the reception of additional evidence and the placing of additional charges. Such additional charges were specified to be as follows:

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Petition of Carol King Opposing Designation of Arthur J. Phelan as Presiding Inspector and John P. Boyd as Examining Inspector

The Act of October 16, 1918, as amended, in that he is found to have been, after entry, a member of the following class, set forth in Section I of said Act: an alien who is a member of and affiliated with an organization, association, society, and group that advises, advocates, and teaches the overthrow by force and violence of the Government of the United States.

The Act of October 16, 1918, as amended, in that he is found to have been, after entry, a member of the following class set forth in Section I of said Act: an alien who is a member of and affiliated with an organization, association, society, and group, that writes, circulates, distributes, prints, publishes, and displays, and causes to be written, circulated, distributed, printed, published, and displayed, and that has in its possession for the purpose of circulation, distribution, publication, issue, and display, written and printed matter advising, advocating, and teaching the overthrow by force and violence of the Government of the United States.

The respondent was requested to appear for such reopened hearing at 10 A.M., September 22, 1947.

His counsel thereupon telephoned to the New York District Office and informed the Expulsion Section that the respondent was in Detroit on business and would not be in New York until October, and inquired whether an adjournment would be granted. Such adjournment has now been granted to October 15, 1947.

Counsel was then informed that a request for adjournment should be made in writing, as a Presiding Inspector as well as an Examining Inspector were expected to come from the Central Office in Philadelphia for the reopened hearing. Upon information and belief Arthur J. Phelan will be designated as the Presiding Inspector and John P. Boyd as the Examining Inspector.

Your petitioner through his counsel hereby respectfully objects to the change in the personnel of the officials of the Department of Justice conducting his hearings and urges

that under the decision of *United States ex rel Ohm* v. *Perkins*, 79 F. (2d) 533 (C. C. A. 2), the inspector who has heard the testimony in the instant case, Inspector Zimmerman, is the appropriate official to write the findings or the opinion, as the case may be.

The respondent through his counsel further urges that the reason for the change in the personnel is that despite the adverse memorandum of Inspector Zimmerman who conducted the original hearing, such inspector was ready and willing to listen to the testimony and to give the respondent an oppo tunity to meet such testimony; and that the differences between the inspector and the respondent presented an issuable question which the Central Office and thereafter the Board of Immigration Appeals were called upon to determine upon the basis of a memorandum adverse to the respondent but nevertheless presenting and meeting his views.

Respondent believes that the present change in the personnel is due to the fact that the original inspector in his case, whom he consented to have act both as presiding and examining inspector, was not sufficiently prejudiced against the respondent to meet the present prevailing views of the Department of Justice and for that reason has been removed from this case. Under the decision of *United States ex rel. Chin Cheung Nai* v. *Corsi*, 55 F. (2d) 360, reargued 362, Judge Woolsey in reluctantly reversing his original view that a relator was entitled to discharge on habeas corpus because the personnel had been changed during the course of his hearing stated:

> Of course neither here nor in any of the cases cited was there a suggestion that the change in personnel was made with a sinister intent—as, for example, to secure inspectors who would vote for exclusion. Such a situation would involve other considerations than are here present. For here the only question is whether and to what extent a fact finding administrative board should be required to follow the practice of the courts and maintain continuity of personnel throughout each case which comes before it.

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> My views, as previously expressed, remain unchanged, but I yield in my decision to the weight of higher authority. (page 365)

Mr. Phelan and Mr. Boyd both appeared in the case of Harry Renton Bridges (55973/217), a case in which the respondent claimed "that the charges made against the alien were the result of a conspiracy engaged in by persons on the Pacific Coast who were bent on getting rid of Bridges because of his admittedly militant and radical leadership." The trial examiner in the first case, James M. Landis, in his findings stated that "No testimony of this nature was adduced which directly involved the officials of the Department of Labor" "with one exception" (Findings and Conclusions of the Trial Examiner, p. 8). That one exception was Raphael B. Bonham of Seattle (*id.*, p. 73). John P. Boyd was the assistant to Bonham, the District Director in Seattle, and Arthur J. Phelan was an inspector in San Francisco who was present when an affidavit was taken from John A. Kessler, the chef at 501 Baker Street, which affidavit according to Mr. Landis "illustrates that the process employed with reference to the identification from photographs was suggestive to a high degree—a practice careful investigating officers conscientiously eschew." Arthur J. Phelan was one of the investigating officers who apparently did not exhibit such conscientious scruples.

In view of the character of the *Bridges* case and the association in that case of Mr. Boyd and Mr. Phelan and the prejudice that case engendered against Bridges' attorney, who is the attorney for the respondent in the case at bar, and the part played by those two officials in the *Bridges* case, it is reasonably clear that these men are being put into the case of the respondent to deprive him of a fair and impartial trial. This assumption is based not only on the personal experience with Mr. Phelan and Mr. Boyd of counsel for the respondent but likewise on the case now on hearing in the New York District against John Santo, in which Mr. Phelan is the presiding inspector and Mr. Boyd is the examining inspector. Obviously these two officials of the Immigration Service were sent to New York

in the Santo case in order to make findings adverse to Santo. They should not be permitted to participate in the case of the petitioner herein and to deprive him of a fair trial and due process of law.

The decision of Judge Woolsey in the *Chin Cheung Nai* case was based upon a decision of the United States Supreme Court in *Quon Quon Poy* v. *Johnson*, 273 U. S. 352, 355, where the Supreme Court inferentially sustained a deportation where there had been a change of personnel, but stopped to explain that the alien in the first instance had made no objection to the change.

In the case at bar the respondent desires not only to have his objection noted but further alleges that the change is clearly within the exception in the *Chin Cheung Nai* case and that any proceeding conducted by an inspector other than Mr. Zimmerman, in view of the fact that the inspector is available for the reopened hearing, renders the reopened hearing unfair and a denial of due process under the Fifth Amendment of the United States Constitution.

WHEREFORE petitioner respectfully requests that the reopened hearing in his case be conducted by Inspector Zimmerman and that outside inspectors selected "with a sinister intent" be not substituted. Respondent further requests in the event the Central Office or the Board of Immigration Appeals has any question concerning this request on the part of the respondent and does not immediately reinstate Inspector Zimmerman as the Presiding and Examining Inspector in this case that his counsel be given an opportunity to be heard upon this issue and that in the meanwhile all proceedings in his expulsion proceeding be stayed.

Dated: September 17, 1947.

PETER HARISIADES,
Petitioner.

By /s/ CAROL KING,
Carol King.

Department of Justice Record Annexed to the Return

Petition of Carol King Opposing Designation of Arthur J. Phelan as Presiding Inspector and John P. Boyd as Examining Inspector

STATE OF NEW YORK,
COUNTY OF NEW YORK, } ss.:

CAROL KING, being duly sworn, deposes and says:

That she is the attorney for the petitioner herein, Peter Harisiades; that she has read the foregoing petition and knows the contents thereof, and that the same is true of her own knowledge, except as to the matters therein stated to be alleged upon information and belief, and that as to those matters she believes it to be true. That the sources of deponent's information are the record in the case and the knowledge that she has secured as his attorney.

That the reason why this petition is verified by deponent and not by the said Peter Harisiades is because the said Peter Harisiades is temporarily out of the jurisdiction and for the further reason that the questions here involved are largely questions of law concerning which counsel has more information than has the petitioner himself.

/s/ CAROL KING,
Carol King.

Sworn to before me this
17th day of September 1947.

/s/ IRVING FELCHER
Attorney and Counsellor-at-Law
Residing in Kings County
Office and P. O. Address
220 Broadway, N. Y. C.
Kings County, etc.
Commission expires 3-30-48

Record of Reopened Hearing of February 18, 1948

UNITED STATES DEPARTMENT OF JUSTICE

IMMIGRATION AND NATURALIZATION SERVICE
New York, N. Y.

File No. 99183/146

Reopened Hearing:

Date: February 18, 1948.

Place: 70 Columbus Avenue, New York, N. Y.

Presiding Inspector: Gilbert Zimmerman.

Examining Inspector: Maurice A. Roberts.

Stenographer: Vivian H. Garnett.

Respondent's Counsel: Carol King, Attorney of Record, 220 Broadway, New York, N. Y., Isidore Englander, Associate Counsel, 205 East 42nd Street, New New York, N. Y.

Respondent: Peter Harisiades, with aliases: Panagoitis Hatzilias; Pete Hagelias; Pete Harrison.

Presiding Inspector to Examining Inspector:

Q. Are you ready to proceed with the hearing? A. I am.

Presiding Inspector to Counsel, Mrs. King:

Q. Are you ready to proceed with the hearing? A. I am not. I am not ready to proceed with the hearing because I object to a reopening at this time. I have never received a copy of the order of the Central Office directing a reopening in this case, to which I believe I am entitled as a matter of law before the hearing starts. I believe that under the Code of Federal Regulations, Title 8, Section 150.8, Paragraph (a), that you cannot have a reopening prior to the submission of the record to the Board of Immigration Appeals, unless there is a proper cause. I do not believe and I have not been shown that there is a proper cause for the reopening in this case. This man has been on hearings since October of 1946; the hearings were extensive; the warrant of arrest in this case was issued in

1930; the man has been around publicly, with his name on the masthead of a newspaper for many, many years; the Government has had no difficulty in having the man come in and proceed with the hearing. I do not believe that after the Presiding Inspector has filed an opinion that unless proper cause is shown the case can be reopened. I do not believe, and I have not been shown, that there has been any proper cause for reopening in this case. It seems—

(Presiding Inspector interrupts. Off the record conversation between Presiding Inspector and Counsel.)

By Counsel, Mrs. King: I object to being cut off.

By Presiding Inspector: Objection is noted.

By Counsel, Mrs. King: I object to having no ruling on my objection.

By Presiding Inspector: Your further objection is noted, and the Presiding Inspector is examining the regulations to which you referred.

By Examining Inspector: Mr. Presiding Inspector, I would like to call this to your attention with respect to the point raised by counsel. There is an Order by the Commissioner directing that this hearing be reopened. Mrs. King's argument, I take it, is directed to the validity of that Order. Now I submit that the validity of that Order is not for you to question. The Commissioner who has authority, or ostensibly has authority, has directed this hearing be reopened. I don't believe it is within your power to ignore this order. If he is incorrect, the Board of Immigration Appeals can reverse it and Mrs. King can point out wherein he is incorrect, but as I understand, it is now a legal argument Mrs. King is making and I believe Mrs. King can point it out in her brief.

Presiding Inspector to Counsel, Mrs. King: You may make a statement in relation to the statement made by the Examining Inspector.

By Counsel, Mrs. King: I believe that this case has been reopened to bring my client into the general Red hysteria, that there is not any effort to get anything further than what there is before. I

don't believe that the Immigration Service, or any other branch of the Government, can go on demanding for years and years and years that a man should appear and if he objects—and I have to say for the proper protection of my client as a matter of law and fact, because the man has to hold down a job, has a wife and children to support—that this man should be through with hearings at some time, unless there is proper point. It seems to me that when the rules specifically say there must be proper cause that the Presiding Inspector must be satisfied that there is proper cause and that there should be a ruling at this point as to whether there is proper point for reopening this hearing. I know of no regulation that says this is for the Commissioner—

Presiding Inspector to Counsel, Mrs. King (interrupting): I have heard sufficiently the argument on this point. It is the ruling of the Presiding Inspector that the reference in the paragraph, 150.8 of Title 8, Code of Federal Regulations, in the phrase referred to by counsel, "for proper cause", is in the discretion of the Commissioner and I believe that the Order reopening the hearing sets forth such cause. It is, therefore, the ruling of the Presiding Inspector that the hearing will proceed on the Order of the Commissioner. In relation to the question as to whether counsel is prepared to proceed, I believe counsel was placed on notice of this reopening of the hearing and, pursuant to request made by counsel, was advised of the effect of the Order. Is that correct, Counsel?

By Counsel, Mrs. King: I do not know whether I was advised as to the effect of the Order. I have never seen the Order. I think it is most improper that I be required to go forward on a simple statement that I may be shown the Order now. I don't know what I am preparing for.

Presiding Inspector to Examining Inspector: Will the Examining Inspector please show to Counsel the Order reopening the hearing and we will recess to permit Counsel to read it.

By Counsel, Mrs. King: May I ask this additional indulgence, that I be permitted to have and to

keep a copy of the Order, which should have been served upon me many months before.

Examining Inspector to Counsel, Mrs. King: I hand you a copy of the Order of the Commissioner, dated August 5, 1947. I might say that the original of this Order is in the Central Office file and is not in my possession. I will be very happy to have that given to Counsel and kept by Counsel (indicating copy of Order). I might call your attention also to the fact as appears from the New York file in this matter under date of September 3, 1947 that letter was addressed to the respondent and a copy sent to his attorney, Mrs. Carol King, the substance of which is that the addressee is informed that the hearing in his case has been ordered reopened by the Commissioner of Immigration and Naturalization for the reception of additional evidence and the placing of the following charges, and then two charges are contained therein verbatim.

Presiding Inspector to Examining Inspector: Then am I to understand that the notice sent to Counsel, to which you refer, placed Counsel on notice of the substance of the order reopening the hearing. Is that correct?

Examining Inspector to Presiding Inspector: Mr. Presiding Inspector, I believe that in substance it puts the respondent on notice of the reopening, so that a plea at this time that she was not informed is invalid.

By Presiding Inspector: We will recess while Counsel reads the Order and compares it with the notice.

(Recess)

(Hearing Resumed)

Presiding Inspector to Counsel, Mrs. King: The Presiding Inspector has compared the Order of August 5, 1947 of the Commissioner directing reopening of the hearing, and the letter of September 3, 1947, informing the respondent and you of the reopening. I find that in substance the letter to you placed you on notice of the substance of the reopen-

ing. I therefore rule that your objection to proceeding with the hearing is without merit.

By Counsel, Mrs. King: May I be heard?

Presiding Inspector to Counsel, Mrs. King: No, not at this point. I have made my determination.

By Counsel, Mrs. King: I object to not being allowed to put on the record the objections I have: The fact that this record is not being reopened in good faith; that the charge is, to some extent, identical with the charges made in the hearing of October 15, 1946; that the charges contained on pages, particularly 41, of that hearing, numbered (2) and (3), are indistinguishable from the first charge contained in the letter sent to me and in the order; that under date of September 11, 1947, in order to make my objection to the reopening of this hearing, I asked for a copy of the Commissioner's Order directing the reopening, that I was informed that a copy would be given at the beginning of the hearing and nothing was said to me as to the contents of the Commissioner's Order. It seems to me that I had a right at that time to take up with the Central Office the propriety of the reopening of this hearing, and I say again that this reopening in my opinion is not in good faith and I base that on the conduct of the Service in reopening this type of hearing because I think it is not specific in this type of case. In all of these reopened hearings you find a statement like this—

By Examining Inspector (interrupting): I object to this statement at this point. What happens in any other case is immaterial; it has no bearing on this office—

By Presiding Inspector: I have heard enough of this point.

Presiding Inspector to Counsel, Mrs. King: The further objections of Counsel are overruled. The hearing will be proceeded with. If Counsel, by reason of the fact that she did not receive a copy of the Order reopening the hearing, feels that her case is prejudiced to proceed at this time, I will entertain a request for a continuance, if made upon proper cause, after the Government has presented its case,

for Counsel to meet the case of the Government if it appears to my satisfaction that your incapacity to presently meet the case of the Government is due to your not receiving a copy of the Order reopening the hearing.

By Counsel, Mrs. King: May I state for the record my objection to not being permitted to explain why, in my opinion and under the law as I understand it and as it appears in the books, why this reopening is not in good faith. It is not for the purpose of securing additional evidence that is reliable and that the Government is prejudicing the rights of my client and denying him due process of law by the proceedings that are being carried forward this morning—

Presiding Inspector to Counsel, Mrs. King (interrupting): You may state at length your supporting argument in your brief. I believe that you have stated at sufficient length your objections at this time.

Presiding Inspector to Examining Inspector: We will proceed with the case. However, I will notify formally the respondent of the reopening in accordance with the usual procedure of the office.

Presiding Inspector to Respondent:

Q. Will you please take the stand. (Respondent complies.) Your full, true and correct name as you now use it is Peter Harisiades. Is that correct? A. Yes.

Q. And you are the person by that name who was accorded a hearing in deportation proceedings on October 15, 1946, which was subsequently continued and completed Is that correct? A. Correct.

Q. You are hereby formally advised that the Commissioner in an order dated August 5, 1947 directed, in accordance with the provisions of Part 150.8 of Title 8, Code of Federal Regulations, the reopening of the hearing in your case for the proper authentication of documents already introduced in evidence, for the reception of additional evidence, and should the facts warrant, for the placing of two additional charges. These charges were communicated to you in the letter notifying you of the reopening. Do you have any question as to the nature of those two charges?

A. Mr. Presiding Inspector, I didn't receive such a letter and I did not know about it, at least not at my home.

Q. The file in your case contains a copy of a letter dated September 3, 1947, addressed to you at 392 East 4th Street, Brooklyn, New York, and it shows that a copy of this letter was sent to your attorney. Examination of the file fails to disclose that this was ever returned by the post office as having not been delivered to you. Do you understand? A. I do understand.

Q. Your counsel has indicated that she did receive her copy of this letter. Do you understand? A. I do understand, but I didn't receive the letter direct, unless it was at a time my wife received it and handed it over to my attorney.

Q. You are informed that in reopening the hearing the procedures of the Service in effect authorize reopening of the hearing for the introduction of additional evidence. You may, and your attorney in your behalf, present any evidence to meet evidence here adduced against you, cross-examine witnesses if there be any, and make objections to be entered on the record at this reopened hearing. Do you understand? A. I do.

Q (Presiding Inspector to Respondent): Will you please return to your seat.

(Respondent complies).

Presiding Inspector to Examining Inspector: You may proceed.

By Examining Inspector: Mr. Inspector, at this time in accordance with the Commissioner's Order of August 5, 1947, I lodge the following two additional charges against this respondent. The charges are that he is deportable under the following two sections of law:

(1) The Act of October 16, 1918, as amended, in that he is found to have been after entry, a member of the following class set forth in Section I of said Act: An alien who is a member of and affiliated with an organization, association, society, and group that advises, advocates, and teaches the overthrow by force and violence of the Government of the United States.

(2) The Act of October 16, 1918, as amended, in that he is found to have been, after entry, a member of the following class set forth in Section I of said Act: An alien who is a member of and affiliated with an organization, association, society, and group, that writes, circulates, distributes, prints, publishes, and displays, and causes to be written, circulated, distributed, printed, published, and displayed, and that has in its possession for the purpose of circulation, distribution, publication, issue, and display, written and printed matter advising, advocating, and teaching the overthrow by force and violence of the Government of the United States.

By Counsel, Mrs. King: I object to the lodging of these additional charges on the following ground, that the first charge I can't distinguish from the charges that were lodged, as I said, on Page 41 of the prior hearing, and as to the second charge, essentially, it is an embodiment of the charges already heard because we have heard about the organization, which still remains nameless, teaching certain doctrines and it seems to me there is no difference between distribution of literature and the teaching of doctrine, and these additional charges are put in merely for the purpose of the Government not in good faith reopening this case in order to introduce testimony for the purpose of harassing this man—

Presiding Inspector to Counsel, Mrs. King (interrupting): The Presiding Inspector understands that you have such an objection.

By Counsel, Mrs. King: May I have a ruling as to the first paragraph.

Presiding Inspector to Counsel, Mrs. King: You may present argument in support of your point in your brief. The Presiding Inspector will reserve judgment on the objection pending the receipt of the evidence to be adduced at this hearing, and following receipt of such evidence will make a ruling on the objection.

By Counsel, Mrs. King: I object to the Presiding Inspector reserving decision, putting the case all

over again, the same case as before. Is there going to be no end of litigation against this gentleman? Is he going to have to stand trial every time there is a new procedure in—

Presiding Inspector to Counsel, Mrs. King (interrupting): Your further objection is overruled.

By Examining Inspector: Mr. Presiding Inspector, lest Counsel's statement that she does not know the name of the organization in question stand unchallenged, I believe that she has already been informed of the name of the organization, but in case there is any doubt I wish to state here and now that the organization mentioned in the two additional charges and in the charges contained in the warrant of arrest and lodged at the prior hearing, is the Communist Party of the United States of America.

By Counsel, Mrs. King: May I ask at this time whether there is any possibility of finding out from the Examining Inspector what documents or publications the Government is relying on, so that some opportunity may be given to the respondent to examine these documents and that he may not have to come unprepared in this hearing.

Presiding Inspector to Examining Inspector: Mr. Examining Inspector, do you desire to disclose to Counsel the documents that you are going to rely on at this hearing other than those which are already in the record?

Examining Inspector to Presiding Inspector: I believe Counsel is fully aware at this time of the documents which the Government intends to introduce at this hearing. Mr. Englander—this morning—saw them this morning in our office. However, I have no objection to stating them to Counsel, and with your consent I will recite them seriatim—only I think it would be better practice if we had our witnesses on the stand to identify them.

Presiding Inspector to Examining Inspector: The point now under discussion is whether you have any objection to Counsel now knowing what you have.

Examining Inspector to Presiding Inspector: I have no objection to Counsel knowing these documents, that is, the titles of them.

Presiding Inspector to Examining Inspector: Then state them seriatim for the record.

By Examining Inspector: May I suggest this then. Counsel may come over to this side of the table and take a look at this.

By Counsel, Mrs. King: I am making this point because I requested in September an opportunity to know what the documents would be so that I could be prepared and there would be an opportunity for me to read them and because I could be prepared to more adequately examine any witnesses that the Government put on the stand, and I want to register my objection to not being told what documents the Government was going to use in this case so that I would be adequately prepared, and I continue my objection that the Order for the reopening is not in good faith.

Presiding Inspector to Counsel, Mrs. King: Objection noted and overruled.

By Examining Inspector: I have heard a lot of statements made by Counsel about the Government not acting in good faith. I think that those statements are entirely unwarranted—

(Mr. Englander, Associate Counsel, attempts to interrupt and Presiding Inspector stated off the record that interruptions would not be tolerated.)

I would not interject at this time to make this statement because I don't believe in getting into side issues which are not involved in this case, but there are gentlemen of the press present and Counsel has made statements about the conduct of the Government, which I cannot permit to remain unchallenged. If any further remarks of that nature are made by Counsel, I don't want to have to jump up and break up this hearing; I want it understood that I am now registering an objection to further remarks by Counsel that the Government is pursuing a persecutive action or is not acting in good faith. They are outside the scope of this hearing.

Presiding Inspector to Associate Counsel, Mr. Englander: You may now finish the remark that you interjected.

Associate Counsel, Mr. Englander, to Presiding Inspector: I feel this, Mr. Presiding Inspector. Inasmuch as Counsel says it is not in good faith, that this proceeding is not being reopened in good—

Presiding Inspector to Counsel, Mr. Englander (interrupting): It is the determination of the Presiding Inspector that the question of good faith is irrelevant to the issues in this case and nothing more will be heard on that point. You may have an objection if you desire.

By Counsel, Mr. Englander: I make not only an objection but inasmuch as you permitted Counsel for the Government to state categorically that this case is being reopened in good faith—

Presiding Inspector to Counsel, Mr. Englander (interrupting): Counsel was originally permitted to make her objection and the Examining Inspector categorically answered it. I believe that side issue is now settled and we will therefore proceed. (Mr. Englander attempts to interrupt). I will ask that I not be interrupted, please. I will give you an opportunity to speak if I deem it proper. I am conducting the hearing.

Presiding Inspector to Examining Inspector: Mr. Examining Inspector, you may proceed.

(GEORGE HEWITT is called by the Examining Inspector and he takes the stand.)

The Government presents GEORGE HEWITT as first witness.

Presiding Inspector to First Witness:

Q. Will you stand up, please, and raise your right hand. Do you solemnly swear that all the statements you are about to make at this hearing will be the truth, the whole truth, and nothing but the truth, so help you God? A. I do.

Q. You are informed that if you knowingly or wilfully give false testimony at this proceeding, you may be prosecuted for the crime of perjury, the penalty for which upon conviction is imprisonment for not more than five years and a fine of not more than $2,000. Do you fully understand that? A. I do.

Q. What is your full, true and correct name? A. George Hewitt.

Q. What is your present residence address?

By Examining Inspector: Unless that is absolutely called for by the regulations, I don't believe it desirable to have the addresses of Government witnesses listed in this open hearing or stated openly.

Presiding Inspector to Examining Inspector: Very well. You may proceed with your examination.

Direct examination—Examining Inspector to First Witness, George Hewitt:

Q. Have you ever used or been known by any other name or names? A. Yes.

Q. What other name or names have you used? A. Timothy Holmes, George Jackson, and George James.

Q. Why did you use these other names? A. I was instructed by the Communist Party to select these names for subversive purposes.

By Counsel, Mr. Englander: I object to that and move to strike out the answer.

Presiding Inspector to Counsel, Mr. Englander: The answer is the answer of the witness. The weight to be given to the statements is for the Presiding Inspector. We will let the answer stand. Your objection is overruled.

By Counsel, Mr. Englander: Exception.

Examining Inspector to First Witness:

Q. Do you mean by that that those were your Communist Party names? A. Yes, sir.

Q. Mr. Hewitt, what is your education? A. I graduated from high school and attended two and a half years at New York University.

Q. Were you ever a member of the Communist Party of the United States of America? A. Yes.

Q. When did you join the Communist Party? A. I joined the Communist Party in the year of 1927.

Q. Did you get into the Communist Party proper in 1927? A. Through the Young Communist League.

Presiding Inspector to Witness:

Q. What is the full name of this organization which you joined in 1927? A. The Young Communist League, known as the Y. C. L.

Examining Inspector to Witness:

Q. And from there you graduated into the Communist Party proper? A. Yes.

Q. When did you become a member of the Communist Party? A. Late 1927.

Presiding Inspector to Witness:

Q. What is the full name of this Party?

(By Witness): The latter one?
(By Presiding Inspector): Yes.

A. The Communist Party of the United States.

Examining Inspector to Witness:

Q. Are you a member of the Communist Party at this time? A. No.

Q. When did you cease being a member of the Communist Party? A. In the latter part of 1944.

Q. Were you a member of that organization continually from 1927 until 1944? A. Yes.

Q. Did you hold any offices of an official nature in that organization? A. Yes.

Q. Will you tell me the first office that you held in the Communist Party? A. It was first in Brooklyn, in Williamsburgh, as an Agit-Prop Director of the Williamsburgh Unit of the Communist Party in Brooklyn.

Q. That was the unit to which you then belonged? A. Yes.

Q. And for how long were you Agit-Prop Director of the Williamsburgh Unit? A. About a year.

Q. Can you fix the dates? A. About 1928 to 1929.

Q. What were your duties as Agit-Prop Director? A. My duties then were to contact the secret members of the Navy Yard who were operating through our Williamsburgh Unit and to provide them with literature and pamphlets and data that gave them agitational values.

Presiding Inspector to Witness:

Q. By the term "secret members of the Navy Yard", do you mean secret members of the Communist Party who were working in the Navy Yard? A. Yes.

Examining Inspector to Witness:

Q. This literature that you refer to, was that literature of the Communist Party? A. Yes, sir, all of it.

Q. And as Agit-Prop Director was it necessary for you to know the literature which was approved by the Communist Party? A. Yes, sir, I had to.

Q. Was it necessary for you in the performance of your duties to know the doctrines and teachings of the Communist Party? A. Yes.

Q. And did you in fact supervise the distribution of the literature of the Communist Party at that time? A. I did.

Q. Are you familiar with the literature which you distributed? A. Yes.

Q. What was the next official position which you held in the Communist Party in point of time? A. I was then sent into the organization—in the League of Struggle for Negro Rights.

Q. When were you sent into this organization? A. That's about 1929 or about 1930—1929 to 1930.

By Counsel, Mr. Englander: Mr. Presiding Inspector, I object to this line of questioning inasmuch as the question was as to what official position he held in the Communist Party and now he is going into the League of Struggle for Negro Rights.

Presiding Inspector to Witness:

Q. Was this League of Struggle for Negro Rights an organization or subdivision of the Communist Party? A. It was organized by the Communist Party.

Q. What was its relationship to the Communist Party? A. Its relationship to the Communist Party was from the point of view of a front organization.

Q. Were you directed to join it and take this position that you say you had in it by the appropriate higher official in the Communist Party? A. Yes.

By Presiding Inspector: Objection of Associate Counsel is overruled. It is the determination of the Presiding Inspector that the answer is relevant to the question.

By Counsel, Mr. Englander: Exception.

Examining Inspector to Witness:

Q. What was your next official position with respect to the Communist Party of the United States? A. I was then appointed on the Central Control Commission of the National Committee of the Communist Party, simultaneously being appointed also as the Harlem Director or Harlem Organizer of the Communist Party.

Q. Were you a member of the National Committee as such? A. Through the National Control Commission.

Q. You were a member of the National Control Commission? A. Yes.

Q. What were the functions of the National Control Commission at the time you were a member? A. Its function was disciplinary, the purpose of chastising and expelling representatives who did not abide by the laws and the lines of the Communist Party.

Q. How long were you a member of the National Control Commission? A. About 1929 to 1930.

Presiding Inspector to Witness:

Q. I believe you stated in relation to the League of Struggle for Negro Rights that you were a member from 1929 to 1930? A. That's right.

Q. You then stated—

By Counsel, Mr. Englander (interrupting): We must respectfully object, in view of the fact that there is an inconsistency in the testimony of the witness, that the Presiding Inspector is attempting to straighten out his testimony and make it consistent.

By Presiding Inspector: Your objection is noted and at this point is overruled. However, the Presiding Inspector will hereafter not do what was just stated.

Examining Inspector to Witness:

Q. Mr. Holmes (Mr. Hewitt), while you were a member of the Communist Party in an official capacity, was it possible for you to hold more than one position at the same time? A. I held four at the same time. It was possible for you to hold overlapping positions. This came consequently in a period of months, during that period to prepare me for my future work.

Q. As a member of the National Control Commission of the National Committee, was it necessary for you to know the doctrines and teachings and line of the Communist Party as of that time? A. Yes, sir.

Q. And did you know it as of that time? A. Yes.

Q. And do you now know what those doctrines and teachings were as of the time that you were a member? A. Yes.

Q. You mentioned, I believe, that you were a Section Organizer or organizer of the Harlem Section? A. Yes.

Q. When did you get this position? A. That was between 1929 and 1930.

Q. Was this at the same time that you were a member of the National Control Commission? A. Yes.

Q. What were your functions as Section Organizer of the Harlem Section? A. Harlem at that time took in a very vast area. I was the person in charge of organizing over fifty units that comprised over 100 people to a unit, that stretched from about 100th Street to 145th Street, Harlem, and the Fifth Avenue east side to about St. Nicholas.

Q. As part of your duties, was it necessary for you to see that the doctrines of the Communist Party were made known to the members of the various units? A. I believe—

By Counsel, Mr. Englander (interrupting): I believe, Mr. Presiding Inspector, that the Examining Inspector is leading the witness.

By Presiding Inspector: The Examining Inspector will please attempt to refrain from leading the witness.

By Examining Inspector: I shall attempt to do so as far as possible. However, I may say this, that leading questions very frequently serve a very good purpose in cutting down a lot of time.

By Presiding Inspector: At any rate it is the desire of the Presiding Inspector that in view of the objection of Counsel you refrain from putting the questions in a leading manner, to the extent that it is possible.

Examining Inspector to Witness:

Q. Did the Section Organizer have any responsibilities with respect to the literature of the Communist Party? A. Yes, the Section Organizer of the Communist Party sections in those days was responsible, or rather, he was in charge of a Bureau consisting of an Educational or Agitprop Director who was responsible to him for the distribution of literature throughout the Section.

Q. Are you familiar with the literature that was distributed by the Communist Party while you were head of that Section? A. Yes.

Q. Could you identify it if you saw it today? A. I can.

Q. What was your next position or activity in the Communist Party? A. I was then sent to the Soviet Union where I took a course of study for two and a half years.

Q. Where did you pursue this course of study? A. In the International Lenin School, Moscow.

Q. During what years were you in attendance at this school? A. Between 1930 and 1932.

Q. Who conducted the International Lenin School? A. The Communist International.

Q. Was the Communist Party of the United States connected in any way with the Communist International? A. Yes, sir. It was a sister Party of the Communist International.

By Counsel, Mr. Englander: At this time, Mr. Presiding Inspector, I object to the introduction of

this evidence on the ground that it is not in support of the charges now lodged against the respondent. I submit that all of this evidence has been gone into at the original hearing and the only purpose in reopening the hearing was in support of those charges and this evidence is not in support of these charges.

By Presiding Inspector: Objection is overruled. The reopening of a hearing reopens the hearing for all purposes. It is the determination of the Presiding Inspector that this line of questioning is pertinent to the issues.

Presiding Inspector to Examining Inspector: You may proceed.

By Counsel, Mr. Englander: Exception.

Examining Inspector to Witness:

Q. Who paid your expenses of travel to the Soviet Union? A. The National Committee of the Communist Party of America.

Q. Did you pay any of that money yourself? A. No.

Q. Who paid your expenses while you were in Russia attending the International Lenin School? A. The National Committee of the Communist Party of America, or of the United States.

Q. Do you know why you were sent to attend the International Lenin School? A. Yes. They gave me an oath before I left.

Q. Why were you sent to attend that school? A. To get instructions for the purpose of becoming a lifelong professional revolutionist for the definite purpose of overthrowing the Government of the United States.

Q. What oath was this that you referred to? A. I must never go back on the doctrines and principles of the Communist Party.

Q. What were you taught at this International Lenin School? A. Theoretically I was given instruction—Marxism, Leninism, foundations of Stalinism, political economy, the Russian language, the fundamentals of trade unionism, the theories of espionage, organizational theory, theoretical methods of uprisings. I can't recall others—there were a few others—but, practically, we had lessons on the manner of how to obstruct on a city block a regiment if necessary, on a machine gun we learned and were given instruc-

tions how to shoot a machine gun, how to handle a hand grenade, how to swim in the water with one's clothes. I won, Mr. Commissioner, the medal known as "Trud E. Obrona"—that is spelled phonetically. In English that means "For Labor and Defense". The way I won that was precisely the points I won swimming with my entire apparatus on and holding a hand grenade. If I didn't accomplish that feat, I would have lost out in the school efficiency.

Q. Mr. Hewitt, who taught the theoretical courses in Marxism, Leninism, and the other theoretical subjects that you mentioned? A. Both American and Russian Communists.

Q. Who taught the practical subjects that you referred to, that is, this business of swimming rivers, street fighting, arms and hand grenades? A. Russian officers.

Q. You mean they were members of the Red Army? A. Members of the Red Army—yes, sir.

Q. Do you know what was the purpose of teaching you all these courses? A. As stated, to prepare ourselves for the eventual revolution in the United States to overthrow the American form of government.

Q. Who paid for your transportation back to the United States? A. The National Committee of the Communist Party.

Q. And when did you return to the United States from Russia? A. 1932 or early 1933.

Q. And did you have any official position in the Communist Party on your return? A. I was immediately sent as organizer of Long Island, which took in the Nassau and Suffolk County areas from Mineola to Montauk Point.

Q. What was the title of your position? A. Section Organizer—Section 9 it was called in those days.

Q. When you were an organizer in Harlem? A. Section Organizer—Section 4.

Q. Were your duties as Section Organizer in Long Island the same as your duties in Harlem? A. Yes, only varied a little because you had farming areas and more colleges.

Q. As Section Organizer of Long Island, were you required to know the doctrines and teachings of the Communist Party in order to perform your functions?

By Counsel, Mr. Englander: I object. Counsel is leading the witness.

By Presiding Inspector: It is the determination of the Presiding Inspector that this particular question asked immediately before the objection was not a leading question. Objection overruled.

A. (By Witness) Yes.

Examining Inspector to Witness:

Q. Were you required to know what literature the Party approved of and distributed? A. Definitely.

Q. Was any literature of the Communist Party distributed under your supervision as Section Organizer? A. Yes.

Q. Can you identify them? A. I can.

Q. What was your next official position in the Communist Party? A. At that particular period the T. U. U. L. was formed by the National Committee of the Communist Party. I was sent in from Long Island to work with the Needle Trades Industrial Union as organizer.

By Counsel, Mr. Englander: I object to any evidence with regard to any organization outside the Communist Party, that being the only charge in the warrant. Any evidence in regard to the T. U. U. L. is irrelevant and immaterial and has no bearing on the issues in this case.

By Presiding Inspector: Your objection at this point is overruled. The witness was stating that he was directed by the Communist Party to this activity.

By Counsel, Mrs. King: I further object on the ground that under date of January 3, 1934, the Solicitor of the Labor Department, which then had jurisdiction over the Immigration and Naturalization Service, made a finding that deportation should not be predicated solely upon membership in any of the T. U. U. L. unions. I am speaking now of the opinion of the Solicitor, Charles E. Wyzanski, Jr., now Judge of the District Court in Massachusetts, and in the opinion in the case of Frank Boric, which is properly spelled "ic" but in this opinion it is spelled "ich" (Alien's Exhibit No. 15 for identification in the case of Bridges v. Wixon, appearing at Page 3869 of the record of hearing in that case).

In this case, prior to the opinion of the Solicitor, Frank Borich had secured certiorari from the United States Supreme Court—

By Presiding Inspector (interrupting): The objection has sufficiently been heard. It is overruled.

By Counsel, Mrs. King: I object to having the Presiding Inspector cut me off because it seems to me that what the status of the case was at the time that the Solicitor rendered his opinion is immaterial.

By Presiding Inspector: Further objection is overruled. The Presiding Inspector is familiar with that decision and has sufficiently heard Counsel's objection to understand it.

By Examining Inspector: Lest Counsel for the respondent be under any misapprehension, the Government is not predicating its case against the respondent on any element and organization other than the Communist Party of the United States.

By Presiding Inspector: I presume you also include in that affiliation with the Communist International.

By Examining Inspector: That is another matter. All I say is that it is membership in the Communist Party of the United States and everything that flows from that membership which is the basis of the Government's case.

Examining Inspector to Witness:

Q. By whom were you sent to this position in the T. U. U. L.? A. By the national and state leaders of the Communist Party.

Q. And how long did you occupy this position as director in this T. U. U. L. union? A. One year.

Q. What was your next official position in the Communist Party? A. I was then removed to the State Bureau of the Communist Party and the State Committee of the Communist Party.

Q. When did you become a member of the New York State Committee of the Communist Party? A. That was in 1935.

Q. And how long were you a member of the New York State Committee of the Communist Party? A. Until 1944.

Q. Continuously? A. Yes, sir.

Q. When did you become a member of the State Bureau? A. Almost immediately—simultaneously with becoming a member of the State Committee of New York.

Q. And how long did you remain a member of the State Bureau? A. Until 1944.

Q. What is the difference between the State Committee and the State Bureau? A. The Bureau is a five man working committee of the State Committee. It does its everyday work.

Q. Would you say it was an executive committee? A. Yes, you can say that.

Q. While you were a member of the New York State Committee, did you have any particular functions? A. Yes.

Q. Will you name them, please? A. I was head of the New York State Negro Commission. I was Educational Director for about two years and I participated with Max Steinberg—

By Examining Inspector: Don't mention names in this answer.

(Witness continues his answer): I participated on the organization committee. I was Educational Director of the New York State Committee of the Communist Party.

Q. How much territory was under your jurisdiction as Educational Director? A. The entire State.

Q. What were your functions as Educational Director for the State? A. My functions were to be responsible for the entire educational apparatus through the State, seeing that literature, pamphlets, were gotten into the hands of the various educational directors throughout the State, to see that all the educational directors' schools, both secret and open, were organized to disseminate the work of the State and National Committee through the Workers' Schools in New York and throughout the country.

Q. In order to perform your functions as Educational Director, was it nessary for you to know the doctrines in which the various members of the Party had to be educated? A. Yes.

Q. And did you know those doctrines? A. Yes.

Q. Do you know those doctrines now? A. I do.

Q. And was it necessary for you to be familiar with the literature of the Communist Party? A. Yes.

Q. Are you now familiar with the literature of the Communist Party which you then used? A. Yes.

Q. What means were used by the Communist Party to educate its members? A. Through secret and open schools, including the Workers' Schools, in which as texts all of the literature that you asked me before were used.

Q. Who conducted these schools? A. The National and State Committees of the Communist Party.

Q. As a member of the State Committee and as Educational Director, did you have any responsibility in this regard? A. Yes, sir.

Q. And did you have anything to do with the curricular taught in these schools? A. Yes, sir, both secret and open. As a matter of fact, I was sent in on the Executive of the National Committee of the Workers' School.

(Note: Off the record discussion between Presiding Inspector and Associate Counsel on the matter of the witness' volunteering information.)

By Examining Inspector: May I proceed.

Examining Inspector to Witness:

Q. What was the difference between a regular school and a secret school? A. Well, the regular school, or I would rather say, the regular workers' school was one that was more or less open to the public, in which both Communists and non-Communists attended with admission fee. The other school was schools held in homes and in camps and definitely secretive and only members of the Communist Party were permitted to attend these schools.

Q. Was there any difference in the curricular taught in these schools? A. Yes.

Q. What was the difference? A. The difference was that the secret schools had on their curricular the question of the overthrow of the Government—

By Counsel, Mr. Englander (interrupting): I object that the answer has not been responsive. The witness is giving information—

(Note: Discussion had off the record among Examining Inspector, Counsel for Respondent, and Presiding Inspector relative to witness' answer.)

By Presiding Inspector: Objection is overruled. I will allow the answer as being responsive.

By Examining Inspector: Now this witness was interrupted and I suggest that the question be read and the answer thus far.

(Question and answer read by stenographer.)

A. (By Witness continuing): —which carried its course of instruction into the phase of strategy, organization and tactics, wherein the open schools taught merely the philosophies of Marxism, Leninism, and foundations of Leninism, and was very tactful—

By Counsel, Mr. Englander: I move to strike out this last part of the witness' answer.

Presiding Inspector to Counsel, Mr. Englander: Would you allow him to answer the question.

By Counsel, Mr. Englander: I believe that as far as the witness has already given a portion of the answer that is not responsive that you are now in a position to give an opinion as to whether it is responsive or not. I think you have sufficient evidence there that this answer is not responsive.

By Examining Inspector: May I answer that. I have been very patient in not breaking in, but at this point I must protest at being interrupted and having the witness interrupted at the middle of this answer. It disrupts this proceeding and interferes with the trend of his thought and I believe it is unlawful. This is not a case that we are trying before a jury. If the witness does testify to anything which is not responsive, at the conclusion of his answer I suggest that Counsel have the right to move to strike that part which is not responsive, and I am sure that you, Mr. Presiding Inspector, will make your findings of fact only on the evidence which is proper, and I think that we are unduly being harassed by these constant objections. I am not imputing bad faith to Counsel to making them but I do think that it is time we get forward with this.

By Presiding Inspector: It is the determination of the Presiding Inspector that the witness will be permitted to finish his answer without objection. Upon completion of his answer or upon being limited

by the Presiding Inspector only, an objection may be made that a portion of the answer is not responsive, whereupon a ruling will be made.

By Examining Inspector: May I have that last question and answer read to the point where the objection was introduced?

(Question and answer read by stenographer.)

A. (By Witness): (continuing): In relation to this I merely wish to state that I worked very closely for a number of years with the organization on instruction to students, both secretly and openly, and I feel to some extent that I am insulted here.

Presiding Inspector to Witness: Please answer the question which was asked. Continue your answer. The question is: What was the difference between the curricula in both the open and the secret schools?

A. (By Witness): Simply that the curricula of the secret schools dealt with organizational, tactical, and strategical questions of conspiracy. The open schools dealt with the theoretical, open lessons on Marxism and Leninism.

Examining Inspector to Witness:

Q. Mr. Hewitt, did you teach at any of these schools? A. Yes.

Q. Were the teachers of these schools under your supervision? A. Yes.

Q. And to whom were you responsible for your work as Educational Director? A. To the National Committee and the State Committee of the Communist Party.

Q. And in conducting this educational work did you conform to the standards set down by your superiors in the Party? A. I did.

Q. Was any fault ever found with the manner in which you fulfilled your position?

By Counsel, Mr. Englander: I object to that as being leading and has nothing to do with the issues of the case at this time.

By Presiding Inspector: Objection overruled. (To Witness): Answer the question.

(To Stenographer): Repeat the question for the witness.

(Question read by stenographer.)

A. (By Witness): No, sir.

Examining Inspector to Witness:

Q. What was the connection, if any, between these schools and the Communist Party? A. They were the Communist Party—the educational wing of the Communist Party.

Q. During what years did you teach at the Workers School? A. 1936 to 1944.

Q. And where was the location of this Workers School? A. It was known as the Workers School at 12th Street and University Place, on the second and third floors at 35 East 12th Street, New York City, known as the Workers School.

Q. Did they occupy the whole building? A. No, the Workers School occupied two floors—classrooms were there.

Q. Do you happen to know where the headquarters of the Communist Party were with respect to the Workers School? A. In the same building.

Presiding Inspector to Witness:

Q. Was that true all of the years that you mentioned? A. Yes.

Examining Inspector to Witness:

Q. Apart from what you have testified to, were there any other official positions that you occupied while you were a member of the Communist Party? A. I don't recall any—excuse me—outside of being sent out of town as a State representative of the Bureau to Bethlehem and Buffalo, meeting with the Communists and directing them with instructions from the State office. The Bureau to which I refer is the New York State Bureau of the Communist Party.

Q. As a result of your membership in and responsibilities in the Communist Party of the United States, are you now familiar with the doctrines and teachings of that organization during the period of your membership? A. Yes.

Q. Are you familiar with the teachings and doctrines of that organization during the period between 1925 and 1939? A. Yes.

Q. And are you familiar with the literature which was circulated and distributed by the Communist Party during the period up to the end of 1939? A. Yes.

Q. I show you a pamphlet entitled, "The Constitution and By-Laws of the Communist Party of the United States of America" which is already in evidence in this case as Exhibit #4. Are you familiar with this pamphlet? A. Yes.

By Counsel, Mr. Englander: At this time I make my objection to this line of examination. This witness has been produced here and the Government claims that he is well qualified, having been Educational Director, etc., and is familiar with the books. In view of that, let him state what the literature was that was distributed, without Counsel showing him each individual book. Let him state what literature was published and distributed.

By Presiding Inspector: The objection is overruled. The Examining Inspector may conduct his examination as he sees fit.

By Counsel, Mrs. King: I further object to this particular document upon the ground that it is already in evidence at the last hearing when we were supposed to be running a test case.

By Presiding Inspector: Please state your objection.

By Counsel, Mrs. King: This document was admitted by us to be the constitution of the Communist Party and there is no reason to waste the Service's time as to this particular document.

(Discussion had off the record between Presiding Inspector and Examining Inspector relative to document.)

By Presiding Inspector: Objection overruled.

By Examining Inspector: I am anxious to save time and if Counsel is willing to stipulate that this is not only an authentic exhibit but that it was circulated, printed, published, and displayed by the Communist Party, we will accept that stipulation.

By Counsel, Mrs. King: We so concede.

By Examining Inspector: And I believe that such concession should be made by the respondent himself.

By Respondent: Yes, I so stipulate.

Examining Inspector to Witness:

Q. Mr. Hewitt, I show you a pamphlet entitled, "Program of the Communist International"—

By Counsel, Mrs. King: We are ready to make the same concession as to that exhibit, which is already in evidence.

By Examining Inspector: Do I understand that Counsel is willing to concede that this document, which is in evidence as Exhibit 5, is an authentic document and that it was printed, published, circulated, distributed and displayed by the Communist Party during the period of the respondent's membership therein? I should also like the record to indicate whether the respondent himself joins in this stipulation.

By Respondent: Yes, I do.

(Recess—Consultation between respondent and his Counsel.)

Examining Inspector to Witness:

Q. Mr. Hewitt, I show you a pamphlet entitled, "Programme of the Communist International, Together with the Statutes of the Communist International", published by the Workers Library Publishers, Inc., 1929 edition, which pamphlet is already in evidence as Exhibit 5A. Can you identify that? A. Yes, sir.

Q. What is that? A. This is the program of the Communist International issued by the Central Committee of the Party.

Q. Was this circulated by the Communist Party while you were a member? A. Yes, sir.

Q. Do you happen to know when this particular edition was circulated?

By Counsel, Mrs. King: I object to his examining it, that if he doesn't know he should say so, that all of us can read what it says on the cover.

By Presiding Inspector: Objection is sustained.

A. (By Witness): I can recall getting its first copy almost at the time that I joined, about 1929, and I had used it. As a matter of fact, I have two or three right now in my house.

Examining Inspector to Witness:

Q. And was this circulated by the Communist Party after 1929? A. Yes.

Q. Do you know whether this was circulated only in this edition or were there other editions? A. No, they had editions that went as high as 1934, if I am not mistaken.

Q. Of this particular pamphlet? A. Yes.

Q. Was this a basic document of the Communist Party? A. Yes.

Presiding Inspector to Examining Inspector: Mr. Examining Inspector, can the witness identify the constitution appearing in that book?

By Examining Inspector: I will put the question to him.

Examining Inspector to Witness:

Q. I point out to you Pages 85 to 93 inclusive, of this Exhibit 5A, which pages are entitled "Constitution and Rules of the Communist International". Is that what it purports to be? A. That is.

Q. And what was the effect of that constitution and those rules upon the Communist Party of the United States? A. A binding effect that forced them to abide to the "nth" degree to the decisions just laid down by this constitution.

Examining Inspector to Presiding Inspector: This is already in evidence, I may say, Mr. Inspector.

By Counsel, Mrs. King: Over our objection.

Examining Inspector to Witness:

Q. Mr. Hewitt, I show you a magazine entitled, "The Communist", this being the issue for May, 1934, which is already in evidence in this case and designated as Exhibit #10. On the masthead there appears the following, "The Communist"—A Magazine of the Theory and Practice of Marxism-Leninism, published monthly by the Communist Party of the United States of America. Have you ever seen this magazine before? A. Yes, sir.

Q. Where did you see it? A. At the State and National Committees, the Workers Schools, and in the various units of the Party. I particularly recollect this because every

May Day we had pamphlets, the May Day edition. I have them now preserved in my home.

Q. What is the relationship between The Communist magazine and the Communist Party of the United States? A. One and the same.

Presiding Inspector to Examining Inspector: Will the Examining Inspector phrase that to cover the period which is in issue here?

By Examining Inspector: All right.

Examining Inspector to Witness:

Q. In May 1934 when this particular exhibit was published was this an official publication of the Communist Party?

By Counsel, Mr. Englander: I object to it as being leading.

By Presiding Inspector: Objection overruled.

By Counsel, Mr. Englander: And I further object to the answer as being an opinion and not a factual responsive answer.

By Presiding Inspector: Your further objection is noted. The Presiding Inspector will give due weight to the answer.

Examining Inspector to Witness:

Q. And was this magazine circulated and displayed by the Communist Party? A. Yes.

Q. During the period you were a member? A. Yes.

(Note: Counsel for respondent examine magazine, "The Communist".)

Q. Mr. Hewitt, was it only this issue which was an official publication of the Party, or was The Communist magazine in general an official Party publication? A. This was an official organ of the Communist Party.

Q. Was "The Communist" an official organ of the Communist Party in February 1934, so far as you know? A. Yes, sir.

Examining Inspector to Counsel: I will ask Counsel whether she will stipulate that they came

from "The Communist". I believe she supplied it to us. (Referring to the pages which are in evidence as Exhibit No. 11.)

By Counsel, Mrs. King: As a matter of fact we furnished it to you.

By Examining Inspector: And I think it was stipulated that this came from "The Communist" of February, 1934.

By Counsel, Mrs. King: Yes.

Examining Inspector to Witness:

Q. I show you the pamphlet entitled, "The Way Out"—A Program for American Labor, the Manifesto and Three Principal Resolutions Adopted by the Eighth Convention of the Communist Party of the U. S. A., held in Cleveland, Ohio, April 2, 1934, published in May, 1934 by Workers Library Publishers, and which is now in evidence as Exhibit #12. Have you seen that before? A. Yes.

Q. Where did you see it? A. Workers School, State offices, National offices of the Communist Party, State offices of the Communist Party. I saw it distributed in member units, through the Communist cells, through upstate New York in the secret cells there, in cells in Bethlehem Steel, and so on.

Q. Was that an official publication of the Communist Party? A. Yes.

Q. Were the manifesto and principal resolutions contained in this exhibit adopted by the Eighth Convention of the Communist Party?

By Counsel, Mr. Englander: I object to the question as being leading.

By Presiding Inspector: Objection overruled.

By Counsel, Mr. Englander: Exception.

A. (By Witness): They were.

Examining Inspector to Witness:

Q. Does this pamphlet represent the doctrines and teachings of the Communist Party during the period when it was circulated? A. Yes, it does.

Q. Do you know that of your own knowledge? A. I do.

Q. I show you a magazine entitled, "The Communist", the particular issue being July, 1934. Have you seen this before? A. Yes.

Q. Can you identify it? A. Yes.
Q. What is it? A. An official magazine of the National Committee of the Communist Party.

Examining Inspector to Presiding Inspector: Mr. Presiding Inspector, photostatic copies of articles from this magazine are already in evidence as Exhibits 15 and 16.

Examining Inspector to Witness:

Q. Was this magazine circulated by the Communist Party of the United States? A. Yes.
Q. As of what date? A. Dating from the July distribution for the entire month until the next issue came out.
Q. Did the circulation of these issues of "The Communist" cease immediately upon the next issue? A. No, they continued to use these, circulating them in secret schools for study and also in the Workers School they had them on display to be used by the directors every now and then.
Q. Now, with respect to the articles which appeared in The Communist magazine from time to time as it was published, what relation did these articles have to the Communist Party of the United States?

By Counsel, Mr. Englander: I object to that, Mr. Inspector, upon the ground that they do not relate to any particular document which is either in evidence or about to be introduced in evidence, and it is a general question only.

(Note: Mr. Englander states his reasons for his objection off the record to the Presiding Inspector.)

By Presiding Inspector: Objection is overruled.
By Counsel, Mr. Englander: Exception.
By Presiding Inspector: Repeat the question for the benefit of the witness.

(Question is read by the stenographer.)

A. (By Witness): They were one and the same because they bear a direct relationship. Every person who wrote in "The Communist" was instructed by the National Educational Bureau. You couldn't get an article in that unless it passed the eyes and ears of the top officials of the Communist Party.

Q. So far as you know, were the articles which appeared in "The Communist" from time to time representative of the official documents of the Communist Party?

By Counsel, Mr. Englander: Objected to as being leading.

By Presiding Inspector: Objection sustained. If the Examining Inspector desires, he may put the question in the form of what the articles represented in relation to the Party or something to that effect.

Examining Inspector to Witness:

Q. Mr. Hewitt, while you were a member of the Communist Party, were membership books issued by the Communist Party? A. Yes.

Q. Would you recognize a membership book if you saw one? A. Yes.

Q. Was there any difference between the types of book issued to one member from another? A. All were uniform.

Q. I show you what purports to be a membership book of the Communist Party of the U. S. A., which on its face appears to have been issued on August 3, 1930, and ask you whether you can identify this? A. Yes; this is an official book of the Communist Party.

Q. Is that the sort of book that was issued to all members of the Communist Party in 1930? A. Yes, sir.

Q. And are the statements appearing in this book, that are printed, official statements of the Communist Party as of that time? A. Yes.

By Examining Inspector: Then I offer this in evidence.

(Counsel for Respondent examine book.)

By Examining Inspector: Mr. Presiding Inspector, I offer this membership book in evidence, offering only that part of the book which is printed. I am asking you to ignore anything which is put in there or which appears to be in there by written addition, either in pen or pencil. I am offering it only as a typical Communist Party membership book. As a matter of fact, it can be considered as if this were blank, for that year, 1930.

By Presiding Inspector: This membership book, which bears printed No. 15059, is marked in evidence as Exhibit 18.

Examining Inspector to Witness:

Q. Mr. Hewitt, I show you a pamphlet entitled, "The Communist Manifesto", by Karl Marx and Friedrich Engels, published by the International Publishers, all rights reserved, 1932, and this is the eleventh printing, April, 1939—

By Counsel, Mrs. King: Mr. Presiding Inspector, may I inquire of the Examining Inspector for what purpose this book is being shown to the witness?

By Presiding Inspector: The Examining Inspector may advise Counsel if he sees fit.

By Examining Inspector: I think that will be made clear by the questions I am going to ask.

Examining Inspector to Witness (continuing):

Q. Have you seen this before, Mr. Hewitt? A. Yes.

Q. Where? A. From the time of my initiation as a Young Communist League member back in 1927 throughout, in all of the various organizations and places I taught, within Communist circles, and upstate New York, out of town—Chicago, Philadelphia, and various Parties, cells and sections.

Q. How was this used in the Communist Party? A. This was used as a sort of a general theoretical study of the Communist movement generally. It was considered a very fine book to place into the hands of non-Party people.

Q. Was this book circulated and distributed in the Communist Party? A. Yes.

Q. And can you identify the authors as Karl Marx and Friedrich Engels? A. Very much so.

By Examining Inspector: Are Counsel willing to stipulate that Karl Marx and Friedrich Engels were the two principal formulators of the doctrines known as Marxism?

By Counsel: Yes.

Examining Inspector to Witness:

Q. Have you read this pamphlet? A. Several times.

Q. And you know whether its doctrines are basic doctrines of the Communist Party? A. They are not basic in so far as the Communist Party of the United States, but they are general doctrines that apply to every Party in the world, every Communist Party in the world.

Q. I think you have already testified that this was circulated by the Communist Party of the United States while you were a member? A. Yes.

Q. Was it circulated in the Communist Party during the years between 1927 and 1939? A. Yes.

By Examining Inspector: I offer this pamphlet in evidence.

By Counsel, Mrs. King: I object, Mr. Presiding Inspector, on the ground that it is incompetent, irrelevant, and immaterial, that on February 10, 1948 the Board of Immigration Appeals, in the case of Karl Einar Dalskog, File No. 56068/819, ruled that the Manifesto does not call for the forceful overthrow of the Government of the United States and if I may do so, I briefly read from that opinion—

By Presiding Inspector: It is unnecessary to read from that opinion.

(Note: Discussion had off the record between Presiding Inspector and Counsel.)

Presiding Inspector to Witness:

Q. Has the Communist Party in the United States professed to be a Party dedicated to Marxist-Leninist principles? A. Yes.

Q. Is this "Communist Manifesto" a statement in brief of what is covered by the Marxist section of the phrase, "Marxism-Leninism"? A. Yes.

By Presiding Inspector: Objection overruled.

This pamphlet entitled, "The Communist Manifesto", is marked in evidence as Exhibit #19.

We will recess for lunch and resume at 1:30 P. M.

Recess.

(Hearing Resumed)

Examining Inspector to Witness:

Q. Mr. Hewitt, I show you a pamphlet entitled, "State and Revolution", by V. I. Lenin, published by the International Publishers of New York, Copyright 1932. Have you seen that pamphlet before? A. Yes, sir.

Q. Where have you seen that before. A. Throughout my entire life in the Communist Party, in its offices and in the Workers School and various unit branches.

Q. Was this pamphlet distributed by the Communist Party during the period of your membership? A. Yes, it was.

Q. And does this pamphlet contain the doctrines subscribed to by the Communist Party while you were a member? A. Yes, sir.

Q. Can you be a little more specific with respect to the dates when this was distributed and circulated by the Communist Party? A. This was circulated by the Communist Party from its inception in this country, "State and Revolution". It is an old pamphlet that came over from the time of the split back in, I believe, 1919 so I would say from 1920 on up until the present time, this is used by the Communist Party of the United States.

Q. Was this pamphlet used in any way in the schools that you referred to? A. Yes, sir. It was used in the secret schools, the Workers Schools.

Q. In what way was it used? A. To teach—it was used as a text in order to teach the students the importance of overthrowing violently the capitalist state.

By Counsel, Mr. Englander: I object to the answer as calling for a conclusion and move to strike it out.

By the Presiding Inspector: Objection overruled. The answer will ge given its due weight.

By Examining Inspector: I offer this in evidence.

I would like to have a short recess now. The witness has a telephone call.

(Recess granted.)

HEARING RESUMED

By Presiding Inspector: This document, "State and Revolution," is marked in evidence as Exhibit 20.

Presiding Inspector to Examining Inspector: You may proceed.

Examining Inspector to Witness:

Q. Mr. Hewitt, I show you a pamphlet entitled, "'Left-Wing' Communism, An Infantile Disorder,'" by V. I. Lenin, published by the International Publishers, Copyright in 1940. Have you ever seen this pamphlet or an identical pamphlet before? A. Yes, throughout my entire life in the Communist Party.

Q. Where did you see it? A. In the offices of the Communist Party, National and State Committees, Workers School, Library, the various sections and organizations that I toured while lecturing for the Communist Party.

Q. Was this used in the classes in the Workers Schools? A. Yes, it was used extensively in the Workers School.

Q. Does this represent the teachings of the Communist Party during the time that you were a member of the Party? A. Yes, even much more than some of the others because it points out certain weaknesses that the Communist Party can fall into and this was drummed into the members of the various secret schools.

Q. Was this distributed and circulated by the Communist Party during the period of your membership? A. Yes.

Q. Throughout the period? A. Throughout the period.

By Examining Inspector: I offer this in evidence.

By Presiding Inspector: This document entitled, "'Left-wing' Communism, An Infantile Disorder," is marked in evidence as Exhibit 21.

Examining Inspector to Witness:

Q. I notice that this particular exhibit bears the copyright date of 1940. Was this issued before 1940? A. Since 1929.

Q. I show you a pamphlet entitled, "Foundations of Leninism", by Joseph Stalin, published by the International Publishers, copyright 1939. Have you seen this before? A. Yes, sir, since 1929.

Q. Where have you seen that? A. In the offices of the National, State Committees, Workers School, Library—I

taught from it myself in the Workers School—the secret schools and the sections and organizations of the Communist Party.

Q. Does this pamphlet contain the teachings and doctrines of the Communist Party during the period of your membership? A. Yes, particularly in relation to the peasant question, the national question, and the question pertaining to the dictatorship of the proletariat.

Q. Was this pamphlet distributed and circulated by the Communist Party of the United States when you were a member? A. Yes.

Q. Do you know that of your own personal knowledge? A. Yes, sir, I taught by it and distributed it myself.

Q. And you know whether it was distributed by other members of the Communist Party? A. Yes, officially, from the State and National Committees of the Party through its various educational directors.

By Examining Inspector: I offer this in evidence.

By Presiding Inspector: This document entitled, "Foundations of Leninism", is marked in evidence as Exhibit 22.

Examining Inspector to Witness:

Q. Mr. Hewitt, I show you a pamphlet entitled. "Problems of Leninism", by Joseph Stalin, published by the International Publishers, copyright 1934, and this is the second printing, 1935. Have you ever seen this before? A. Since 1929.

Q. And where have you seen that pamphlet? A. Throughout the offices of the Communist Party, National and State, Workers Schools, secret schools, sections and counties of the Communist Party.

Q. Does this pamphlet contain the teachings of the Communist Party and the doctrines of the organization during the period that you saw it circulated? A. It contains to a greater extent the organizational features of the Communist Party.

Q. Was this pamphlet distributed and circulated by the Communist Party during the period of your membership? A. It was.

Q. Do you know the manner of—

By Counsel, Mr. Englander: I presume that whenever Counsel for the Government makes refer-

ence to the Communist Party he refers to the Communist Party of the U. S. A.

By Examining Inspector: I agree that my reference to the Communist Party are specifically with respect to the Communist Party of the United States.

Examining Inspector to Witness:

Q. Do you understand that, Mr. Witness? A. Yes.

Q. Do you know the manner of distribution and circulation? A. Yes, it was distributed by means of the educational and agit-prop sectors, both National and State.

Q. Do you know this of your knowledge? A. Yes, I do, because I was one of the educational directors who participated in the distribution of this.

By Examining Inspector: I offer that in evidence.

By Presiding Inspector: This document entitled, "Problems of Leninism", is marked in evidence as Exhibit 23.

Examining Inspector to Witness:

Q. Mr. Hewitt, I show you a pamphlet, entitled, "The Communist Party in Action", by Alex Bittelman, published by the Workers Library Publishers, May 1934, first printing April, 1932, and this edition May, 1934. Have you seen this pamphlet before? A. Yes, shortly after I returned from the Soviet Union.

Q. Where did you see this pamphlet? A. In the National and State offices, in the Workers Schools and libraries, and in the sections of the Parties.

Q. Do you know Alex Bittelman? A. Yes.

By Counsel, Mrs. King: Objected to as irrelevant and incompetent and immaterial.

By Presiding Inspector: Objection overruled.

Examining Inspector to Witness:

Q. Was Mr. Bittelman a member of the Communist Party? A. He was the National Agit-prop or Educational Director of the Communist Party and a member of its National Bureau.

Q. Have you read this pamphlet? A. Yes.

Q. Does this pamphlet contain the teachings and doctrines of the Communist Party of the United States during the period of your membership?

By Counsel, Mrs. King: I object to it as leading.

By Presiding Inspector: Objection sustained. (To Examining Inspector): Rephrase the question.

Examining Inspector to Presiding Inspector: Mr. Presiding Inspector, this is the same question that was asked this witness with respect to all the other exhibits and I fail to see how this is leading. However, I will rephrase the question. I still don't think that this is a leading question.

Presiding Inspector to Examining Inspector: Rephrase the question in this instance.

Examining Inspector to Witness:

Q. Are you familiar with the doctrines contained in this pamphlet? A. Yes, I am.

Q. Do those doctrines have any relationship to the doctrines of the Communist Party? A. Yes, they have direct relationship to the doctrines of the Communist Party. As Educational Director, I had to take these things, especially coming from Mr. Bittelman, and see to it that they were disseminated and developed among the leading cadres or organizers of the Communist Party throughout the State.

Q. Do you know whether this pamphlet was circulated and distributed by the Communist Party? A. Throughout the Communist Party it was circulated and distributed.

Q. How do you know that? A. I assisted in it.

Q. Where was it circulated and distributed? A. In the sections and counties of the Communist Party and the State Committees, National Committees, the Workers Schools, and likewise in the bookshops.

By Examining Inspector: Mr. Presiding Inspector, I offer this in evidence. May I ask that this be deemed marked in evidence and that there actually be marked in evidence this photostatic copy of the exhibit. I should explain that this is a fairly rare exhibit, in that it is now out of print and difficult to obtain and for that reason I prefer that it be not tied up in this proceeding and that the photostatic copies be entered.

By Counsel, Mrs. King: We have no objection to the marking of the photostat in evidence, but we do object to the exhibit on the ground that it has never been shown that it is an official document of the Communist Party and for that reason we do not believe that it is binding on this respondent here.

By Presiding Inspector: The objection is overruled, the testimony of the witness having established it sufficiently.

This document entitled "The Communist Party in Action", is marked in evidence as Exhibit 24.

Examining Inspector to Witness:

Q. Mr. Hewitt, I show you a pamphlet entitled, "Why Communism", by M. J. Olgin, published by the Workers Library Publishers, first edition, December 1933, this edition evidently May, 1935. I ask you whether you have ever seen that pamphlet before. A. Yes, this was one of the most popular pamphlets of the Communist Party.

Q. What do you mean by one of the most popular pamphlets? A. It was distributed and, rather, it was revised or repeated, so to speak, in my opinion more often than other pamphlets that you have shown me here today and as a result of my tours and travels throughout the State and the country I saw this in more abundance among the sections, the counties, the schools and the various apparatus of the Communist Party.

By Counsel, Mr. Englander: I object on the ground that the answer of the witness is an opinion and he so stated in his answer, and I move that the answer be stricken out as not being responsive.

By Examining Inspector: I submit that he has elaborated there the basis of his opinion and therefore his answer is perfectly proper.

By Presiding Inspector: The answer in effect is a statement of fact and that phrase does not govern the effect of the answer. Therefore, the objection is overruled.

Examining Inspector to Witness:

Q. Do you know the author of this pamphlet, M. J. Olgin? A. I knew him; he died some years back.

Q. Did he have any connection with the Communist Party of the United States? A. Yes, sir, he was connected with the National Committee of the Communist Party.

Q. What do you mean connected with? A. A member of the National Committee of the Communist Party.

Q. Did he have any other position in the Communist Party? A. And he was the president of the Jewish Daily Freiheit.

Q. Are you familiar with the contents of this pamphlet? A. Yes.

Q. Does this pamphlet contain the teachings and doctrines of the Communist Party?

By Counsel, Mrs. King: Objected to as leading.
By Presiding Inspector: Rephrase the question.

Examining Inspector to Witness:

Q. You are familiar with the doctrines enunciated in this pamphlet? A. Thoroughly.

Q. What is the relationship, if any, between those doctrines and the doctrines of the Communist Party of the United States? A. The relationship of this pamphlet to that of the Communist Party of the United States can be seen from the point of view that Mr. Olgin amplified the theories and doctrines as espoused in the various fundamental doctrines of Leninism and Marxism and this is done in simple form so that the American people can more readily understand it.

Q. Are you familiar with the doctrines of the Communist Party during the period of your membership? A. Yes.

Q. Are you familiar with the doctrines enunciated in this pamphlet? A. Completely.

Q. What have you to say with respect to a comparison of the two? A. Well, the comparison, as I have stated before, is the same as the other doctrines that I have related here.

Q. I think you testified that this was circulated by the Communist Party? A. It was.

Q. Under what circumstances was it circulated? A. Through the machinery of the educational apparatus of the State, National, County, Sections, and likewise through the Workers Schools organization.

Q. Was this pamphlet used in the Workers Schools? A. Yes.

Q. For what purpose was it used? A. To teach the students and the members who came to the various classes of the schools.

Q. To teach them what? A. To teach them Communism in its pure and simple form, which meant Communism that would lead to the overthrow of the capitalist system.

Q. And did the Communist Party advocate Communism? A. Yes, sir, it did.

Q. As enunciated in this booklet? A. Yes, throughout this entire booklet.

Q. Would you say then that this booklet contains the teachings and doctrines of the Communist Party of the United States during the period that it was circulated by the Communist Party?

By Counsel, Mrs. King: I object to it on the ground that it is a leading question.

By Presiding Inspector: Proper foundation was laid and it will be allowed.

By Examining Inspector: I offer this in evidence.

By Counsel, Mrs. King: Objected to on the ground that the book was not shown to be an official document of the Communist Party of the United States.

By Examining Inspector: Mr. Presiding Inspector, may I request that that pamphlet be deemed marked in evidence and that a photostatic copy thereof be marked for the same reason.

By Counsel, Mrs. King: No objections, on the same condition that, as I stated before, we would like to be permitted to have access to a photostatic copy for use in our office.

Presiding Inspector to Counsel, Mrs. King: Efforts will be made to have this document made available to you. The objection by Counsel to the introduction of this document in evidence is overruled.

By Presiding Inspector: The photostatic copy of this pamphlet entitled, "Why Communism", is marked in evidence as Exhibit 25.

Examining Inspector to Witness:

Q. Mr. Hewitt, I call your attention to the following quotation from Exhibit 25, which appears at Page 32:

"The capitalist State is a glaring fact. It is flesh and blood of the capitalist system. It stands in the way of the workers' progress towards a new, free life. Can it be abolished by gradual transformation? Those who say it can are the staunchest supporters of the capitalist robbers and the most active promoters of imperialist wars. Their theory is not harmless, indeed. It is a poisonous theory. It is a smoke screen behind which cruel capitalist exploitation is hiding.

"We Communists say that there is one way to abolish the capitalist State, and that is to smash it by force. To make Communism possible the workers must take hold of the State machinery of capitalism and destroy it."

What have you to say with respect to that quotation?

By Counsel, Mrs. King: Object to the question on the ground that the quotation speaks for itself and what Mr. Witness has to say about it is completely incompetent, irrelevant and immaterial.

By Presiding Inspector: The objection is overruled. I will take the benefit of the opinion evidence of this witness who has established himself by his testimony to be something of an expert on the subject.

A. (By Witness): Yes, sir, I can say that Mr. Olgin very effectively and simply espoused in that remark—in that quotation—the facts drilled into me as a student and as a member and organizer of the Communist Party, whereby I and thousands of others were led to believe that capitalism was the holy of holies of private property and that private property was the cause of the degradation of the masses of the people, and, therefore, by destroying the capitalist State machinery, you would be destroying that evil that causes unemployment, lynchings, etc. This is said very completely here in the book and was for years espoused by the Communist leadership.

Examining Inspector to Witness:

Q. Did that statement conform to the official documents of the Communist Party as you understood them during your period of membership? A. Very definitely so.

Q. I call your attention to the following quotation which appears at Page 43 of Exhibit 25:

> "If this fight has been carried on with sufficient determination, the ground is prepared for action when war comes. Workers do not realize that it is in their power to postpone war. It is. Workers in ammunition plants, go on strike! Shut down your plants! Prevent governmental strike-breakers from resuming work! Railroad men, refuse to handle war materials or to transport troops! Keep guard over your railroad yards and depots lest transportation facilities be used by governmental agents. Marine workers, do not load either men or ammunition! Truck drivers, refuse to assist in war work! Workers of other industries, help the strikers. Farmers, refuse to give your foodstuffs and raw materials to be used for the slaughter!
>
> "If the workers rise in this way against war, the capitalists with their armed forces will try to break the deadlock. There will be attacks on strikers. The workers will have to offer resistance. We Communists do not close our eyes to the fact that this means civil war. But when the masses are organized and fight in great numbers under revolutionary leadership the victory is assured. Part of the army is certain to waver and to join the people. There may be victims, but their number cannot be compared to the losses in life and limb that the workers would suffer in the imperialist war.
>
> "Victory in the civil war spells the doom of the capitalist State.
>
> "We Communists do not say to the workers that they have to begin the civil war today or tomorrow. We say that the civil war is the inevitable outcome of long and arduous struggles against the capitalists and their State and that these struggles must be made the every-day practice of the working class."

Does that represent the teachings of the Communist Party as you learned them during the period of your membership? A. Yes, sir. It is a very definite and simple elaboration—

By Counsel, Mr. Englander: I object, that the witness has sufficiently answered the question.

By Presiding Inspector: As I informally indicated, I will accept volunteered information which is pertinent to the question.

(Presiding Inspector to Witness): You may proceed if you desire.

A. (By Witness): It is an elaboration of the famous slogan of Lenin's in Lenin's book on imperialism, in which he states, turning the imperialist war into a civil war. What Mr. Olgin was attempting to do there was to force this very emphatically into the minds of the American people and the Communist Party.

(Recess—five minutes.)

(Hearing Resumed)

Examining Inspector to Witness:

Q. I call your attention to the following quotation which appears on Pages 65 and 66 of Exhibit 25, and I am quoting from the last paragraph on Page 65:

> "The Communist Party also participates in the election campaigns as a separate and distinct political party. It nominates its candidates for federal and local offices and it solicits votes. It is anxious to have its representatives in the legislative bodies. But its election campaigns and its activities within parliament are fundamentally different from those of, say, the Socialist Party. We Communists are not here to help the capitalists govern the masses. We are here to help the masses press their masters, get from the capitalists and their government a maximum of concessions. We do not spread the false notion that there can be cooperation between the exploited and their exploiters. On the contrary, we go to the legislatures to prove to the workers that such cooperation must not be because it is good only for the bosses. In other words, we go to the legislatures—and we conduct our election campaigns—in

the spirit of the class struggle. We use the platform of the legislatures, from which our voice can be heard better than the voice of private citizens, to help organize the workers and help them conduct all their daily struggles. At the same time we try to force the law-makers to pass legislation that would bring relief to the workers. We do so, not by pretty speeches, not by telling the law-makers, who are servants of the big money bags, how fine and noble they are, but by heading great movements of the masses which would make those gentlemen sit up and take notice. In other words, while the Socialists solicit votes in order to reform the State and thereby to make it more effective for the capitalists, we Communists practice revolutionary parliamentarism, by which is meant strengthening the working class and weakening its enemies. We go to the law-making institutions, not to tinker them up for the benefit of the capitalists, but to be a monkey wrench in their machinery, preventing it from working smoothly on behalf of the masters. We use, while there, every step of those agents of the capitalists to expose them before the people, to show what these so-called representatives of the people and what all these so-called democratic institutions actually are."

Does what I have just read represent the teaching of the Communist Party as you learned it while you were a member?

By Counsel, Mrs. King: Objected to on the ground that the question is leading.

By Presiding Inspector: Objection is overruled.

A. (By Witness): This represents the teaching of the Communist Party as I gathered it throughout my entire time in the movement because I learned first in Russia the theories of Leninism, of parliamentarianism, and I see that this conforms with Lenin's famous theory of the link between bourgeois parliamentarianism and the masses, a link that was to be used for the purpose of not working for the capitalist forms of government but for the purpose of exposing any weaknesses as they saw it before the masses of the people.

Examining Inspector to Witness:

Q. I call your attention to the following quotation which appears in the last paragraph on Page 59 of Exhibit 25:

> "Workers stop work; many of them seize arms by attacking arsenals. Many had armed themselves before as the struggles sharpened. Street fights become frequent. Under the leadership of the Communist Party, the workers organize Revolutionary Committees to be in command of the uprising. There are battles in the principal cities. Barricades are built and defended. The workers' fighting has a decisive influence with the soldiers. Army units begin to join the revolutionary fighters; there is fraternization between the workers and the soldiers, the workers and the marines. The movement among the soldiers and the marines spreads. Capitalism is losing its strongest weapon, the army. The police as a rule continue fighting, but they are soon silenced and made to flee by the united revolutionary forces of workers and soldiers. The revolution is victorious."

Does that represent the manner in which the revolution was to come about, according to the doctrines of the Communist Party? A. We used that particular passage to actually carry those things into effect, such as sending people into the Army and the Navy and bringing about a disruption that would eventually collapse the capitalist form of government of the United States.

Presiding Inspector to Witness:

Q. By "we", you mean the Communist Party or yourself and others who were in the Communist Party? A. By "we", I mean myself and other members of the Communist Party of the United States.

Examining Inspector to Witness:

Q. Was that just your personal view? A. No. It was the view of the entire membership of the Communist Party.

Q. Mr. Hewitt, I show you a pamphlet entitled "Political Action, Part Two, The Ultimate Aim", published by In-

ternational Publishers, copyright 1935. Have you seen this before? A. Yes, I have seen this in the various schools of the Communist Party, in the State and National Committee, and the Workers School.

Q. What use was made of this pamphlet? A. Well, the name itself tells you the purpose. This ultimate aim means the time following the struggle for everyday—

By Examining Inspector: May I stop you there. I am not asking you what the pamphlet contains. I am asking you what use was made of that pamphlet in the Communist Party.

A. (By Witness): To instruct members of the Communist Party of the possibility of overthrowing the capitalist form of government.

Examining Inspector to Witness:

Q. Was this pamphlet circulated and distributed by the Communist Party during the period of your membership? A. Throughout the Communist Party it was circulated and distributed.

Q. Have you read this pamphlet or are you familiar with it? A. Yes.

Q. And do the views contained in this pamphlet represent the doctrines of the Communist Party during the period of your membership?

By Counsel, Mrs. King: I object to it as a leading question.

By Presiding Inspector: Question will be allowed.

A. (By Witness): These views represent the doctrines of the Communist Party.

By Examining Inspector: I offer this document in evidence. I ask that the original be deemed marked in evidence and that this photostatic copy be actually received in evidence for the reason stated on the preceding exhibits.

By Counsel, Mrs. King: I object to it on the ground that it is not an official document of the Communist Party. It does not show who wrote it or issued it, or where it came from; it is just a pamphlet.

By Presiding Inspector: Objection is overruled. The photostatic copy of this pamphlet entitled, "The Ultimate Aim", is marked in evidence as Exhibit 26.

Examining Inspector to Witness:

Q. Mr. Hewitt, I think you testified that this was used in the schools? A. In the schools, both secret and open, and particularly in the Workers Schools.

Q. And was it used at any time in the schools which were under your direction? A. Yes. I used it for teaching purposes.

Q. You used it? A. Yes, sir.

Q. Was that with the knowledge and acquiescence of your superiors in the Party? A. Yes. I was informed of the simplicity and benefits of this particular pamphlet.

Q. I show you a pamphlet entitled, "The Struggle Against Imperialist War and The Tasks of the Communists", Resolution of the Sixth World Congress of the Communist International, July-August, 1928. This pamphlet also bears the following imprint: Workers Library Publishers, First edition, December 1932, Second edition, July 1934. Have you seen this before? A. Yes, sir, since 1932.

Q. Where did you see it? A. Throughout the organizational structure of the Communist Party, State, National and Section.

Q. Was this resolution of the Communist International binding on the Communist Party of the United States? A. Yes, sir. It was definitely binding.

Q. And was this pamphlet used in any manner by the Communist Party of the United States? A. Yes, sir, it was used in its schools, in its Sections, in the National Offices, in the Workers School, in the secret and open schools.

Q. Was this pamphlet distributed and circulated by the Communist Party of the United States during the period of your membership? A. Yes, sir, it was.

By Examining Inspector: I offer this in evidence and ask that the original be deemed marked and that this photostatic copy be actually marked.

By Presiding Inspector: The photostatic copy of this pamphlet entitled, "The Struggle Against Imperialist War and the Tasks of the Communists", is marked in evidence as Exhibit #27.

Examining Inspector to Witness:

Q. I show you a magazine entitled, "The Communist", for the month of July, 1929, on the title page of which appears the following: "The Communist"—A Magazine of the Theory and Practice of Marxism-Leninism, published monthly by the Communist Party of the United States of America, and ask you whether you can identify it. A. Yes, that was one of the early pamphlets of the Communist Party distributed by the National, State and Section Committees of the Communist Party.

Q. What was the relationship between The Communist magazine and the Communist Party of the United States as of the time that this magazine was issued? A. This was the organ of the Communist Party of the United States.

Q. And was this circulated and distributed by the Communist Party of the United States at that time? A. It was circulated by the National, State and Section Committees of the Party.

By Examining Inspector: I wish to offer in evidence just an article in this magazine, which appears on Pages 355 to 359 inclusive, the article being, "The Revolutionary Struggle Against Imperialist War", by H. M. Wicks, and I ask that the original be received and deemed marked but that this photostatic copy of the cover and title page and the article in question be actually marked in evidence, the original being needed elsewhere for the reasons above indicated.

By Counsel, Mrs. King: I object to it on the ground that there is no showing that this is an official document of the Communist Party.

By Presiding Inspector: Objection on that ground is overruled, but will be considered in relation to the weight given this article as evidence.

This article entitled, "The Revolutionary Struggle Against Imperialist War", appearing in the July

1929 edition of "The Communist", is marked in evidence as Exhibit 28.

Examining Inspector to Witness:

Q. Mr. Hewitt, I call your attention to the following quotation from Pages 357 to the bottom of 358—in fact, going to Page 359 of this article:

"When Communists urge strikes and crippling of industry in time of war, we are accused of trying to bring about the defeat of 'our own' government. To that charge we plead guilty. That is precisely our aim. A government engaged in warfare is weaker than at other times in spite of the fact that its savage repressions make it appear strong to the superficial observer. At such a moment an organized drive to stop the production of war supplies, to cripple the transportation system may result in creating such difficulties that the imperialist forces may be defeated.

"But it is not sufficient in our drive against imperialist war merely to concentrate upon the war industries. We must be able to reach the masses in the armed forces of the nation with revolutionary agitation and propaganda calculated to cause defections and mutiny in the ranks.

"We do not indulge in the social-democratic twaddle about disarmament. We will not tell the soldiers in the army to throw away their guns and run home. We tell them to hold their guns in their hands and use them against their own capitalist oppressors. When faced with an imperialist war as an accomplished fact we must be able to popularize definite revolutionary slogans among the armed forces. In case of a war between imperialist nations we raise the slogan of fraternization with the soldiers of the opposing army, refusal to obey commands of officers, mutinies, and other forms of disruptive work. In case of a war against the Soviet Union our main slogan will be different. We will then urge the soldiers in the imperialist armies to desert the army and with their guns and as much

ammunition as they can get, go over to the side of the Red Army against the imperialist forces.

"While the capitalists prepare for another imperialist war, we prepare to utilize the difficulties for capitalism arising out of such a war in order to initiate the next stage of the world revolution.

"We realize that such a conflict requires careful preparation under the leadership of a determined Bolshevik party. Turning an imperialist war between nations into a civil war against capitalism is not a simple matter, it is not a game for dilettantes to play. It requires the most highly developed revolutionary strategy and an ability to estimate the relative forces involved in the struggle as well as the precise moment for the launching of the insurrection."

"When a revolutionary situation is developing, as a result of war or from any other cause, the Party of the proletariat must lead a direct attack against the capitalist state. The slogans put forth must be of such a nature as to guide the movement in its development, which will take the form at first of mass strikes and armed demonstrations. In that stage there arises the question of arming of the working class and disarming the capitalist class. Finally the highest form of struggle is reached wherein it culminates in the general strike and a merging of large sections of the military forces and the workers for armed insurrection against the capitalist state power."

Does this represent the teaching of the Communist Party as of July, 1929?

By Counsel, Mrs. King: Objected to on the ground that the question is leading.

By Presiding Inspector: (To Examining Inspector) Rephrase the question.

Examining Inspector to Witness:

Q. Are you familiar with the doctrines of the Communist Party with respect to the role to be played by the prole-

tariat in the case of an imperialist war? A. Yes, sir. I am quite familiar with this doctrine.

Q. And are you familiar with what I have just quoted from this article? A. Yes, sir. I am.

Q. What relationship is there between this quotation from the exhibit and the doctrine of the Communist Party with respect to imperialist war? A. This represents the official theory and decisions of the National Committee of the Communist Party.

Q. I show you a pamphlet entitled, "Thesis and Resolutions for the Seventh National Convention of the Communist Party of the U. S. A.", by the Central Committee Plenum, March 31-April 4, 1930. This appears to have been published by the Workers Library Publishers although the imprint appears in the back and not in the front. Have you seen this before? A. My first instance of seeing this was in Russia.

Q. Have you seen that in the United States? A. I have seen it after I returned to the United States in the Sections and the National Offices and State Offices, Workers Schools, and secret and open schools of the Communist Party.

Q. Was this pamphlet circulated and distributed by the Communist Party, to your knowledge? A. Yes, it was.

Q. Do you know during what period of time it was circulated and distributed? A. Well, I know that it was, following the convention or during the convention—every member of the Party had to receive one. Through the educational directors this was spread through the sections of the Parties because when I returned I found it in all the structural organizations of the Communist Party.

By Examining Inspector: I offer this document in evidence, and I make the same request with respect to having it deemed marked and to having this photostatic copy actually marked.

By Presiding Inspector: This photostatic copy of the document entitled, "Thesis and Resolutions for the Seventh National Convention of the Communist Party of the U. S. A.", is marked in evidence as Exhibit 29.

Examining Inspector to Witness:

Q. Mr. Witness, I call your attention to the following, which appears on Pages 13 and 14 of Exhibit 29:

> "In view of this growing danger of war, the Communist Party must carry through an intensive and continuous compaign for the popularization of Lenin's teachings on the struggle against war, propagating the slogan of the transformation of imperialist war into civil war, the defeat of 'our own' capitalist government, for the overthrow of 'our own' bourgeoisie."

Are you familiar with the doctrines of the Communist Party as of 1930 with respect to imperialist war? A. Studiously I am.

Q. And are you familiar with this passage which I have just quoted from this exhibit? A. Very much so.

Q. What have you to say with respect to any relationship between the two? A. Well, as I stated before, my first instance of seeing this document was in the International Lenin School—

> Presiding Inspector to Witness: Try and make the answer responsive to the question. What can you say about the relationship?

A. (By Witness): —that it was an official theory or decision of the Eighth Convention, which represented an official decision of the National Committee of the Communist Party of the U. S. A.

> Presiding Inspector to Witness: Would you make your answer a bit clearer in relation to the question.

By Witness:

A. As I see it, these (pointing to the exhibit) represented the decisions of the National Committee of the Communist Party. They were official decisions of the Party.

Examining Inspector to Witness:

Q. And that quotation that I just read, was that an official decision of the Party? A. Yes.

Q. Did that represent the teaching of the Party at that time? A. Yes, sir.

Q. When was this the official doctrine of the Communist Party? A. Following the convention of the Party at which these laws were argued and laid down.

Q. And for how long did that continue to be an official document of the Communist Party? A. As far as I can understand, fundamentally it remained the same, with minor changes on the democratic front; the united front, the imperialist war. When Russia was involved the question of imperialist war took on a different aspect.

Q. I show you a magazine, "The Communist", for February 1935, on the title page of which appears the following: A Magazine on the Theory and Practice of Marxism-Leninism, published monthly by the Communist Party of the United States of America, and ask you whether you have ever seen that. A. Yes.

Q. Can you identify that? A. Yes, as an official organ of the Communist Party, the National Committee.

Q. Was that distributed by the Communist Party? A. Through State, National, Section and County schools.

Q. How do you know that? A. I assisted in this distribution.

Q. Was that one of your functions in the Party? A. Yes, sir. At that time I became the Educational Agit-prop Director of the Party in New York City.

By Examining Inspector: I ask that this magazine be received in evidence, and I make the same request with respect to a photostatic copy of the one article which we are offering in evidence, the article being entitled, "The Socialist Revolution in the United States", by Alex Bittelman, and it appears at Pages 127 through 147 in this exhibit.

By Counsel, Mrs. King: Object to it on the ground that there is no showing it is an official document of the Communist Party.

By Presiding Inspector: The objection is overruled.

The photostatic copy of the cover page of this edition of "The Communist" and the article by Alex Bittelman, is marked in evidence as Exhibit 30.

Examining Inspector to Witness:

Q. Mr. Hewitt, I show you Exhibits 15 and 16 in evidence, consisting of two articles in The Communist magazine. This magazine has already been offered in evidence and the two articles referred to have been offered separately as Exhibits 15 and 16, respectively. This magazine is the July 1934 issue. On the masthead of the title page appears the following: "A Magazine of the Theory and Practice of Marxism-Leninism, published monthly by the Communist Party of the United States of America. I think you testified before today that you had seen this magazine? A. Yes, I did.

Q. And can you tell me what relationship, if any, this magazine had to the Communist Party of the United States? A. Its relationship was that it was an official organ of the National Committee of the Communist Party.

Q. Well, as an official organ of the National Committee, was it also an official organ of the Party itself? A. Yes.

Q. And I call your attention to two articles appearing in this magazine, one entitled, "The Darrow Report" appearing at Pages 611 through 615, which article has been received in evidence as Exhibit 15; I also call your attention to the article entitled, "Unify the Forces of all Steel Workers for Aggressive Unionism", being a statement of the Central Committee of the Communist Party of the U. S. A., appearing at Pages 655 through 663 of this issue, which article has been admitted in evidence as Exhibit 16. Was either of these articles an official expression of the Communist Party of the United States as of that time? A. Yes. Both of them were official expressions of the Communist Party of the United States.

Q. Mr. Hewitt, are you familiar with the doctrines of the Communist Party from the period of 1927 to 1939? A. Yes, sir.

Q. Will you tell us in your own words what the purpose of the Communist Party was during that period?

By Counsel, Mrs. King: Objected to on the ground that the views of a single individual are not the best evidence, that the official decision taken by the Party is the best evidence, and that this witness is not qualified to talk. Further objected to on the ground that the Service recently has made it a prac-

tice to have witnesses take the stand to testify that the Communist Party advocated the overthrow of the government and has * * *.

By Presiding Inspector: Objection has been sufficiently stated. Your reasons in support of your objection may appear in your brief.

By Counsel, Mrs. King: Then I object on the ground that I am being denied due process if I am not allowed to make the proper record, that this witness has been coached to testify that the Communist Party believes in the overthrow of the Government of the United States by force and violence, as have all the witnesses in these cases.

By Presiding Inspector: Your further objection is overruled. The regulations provide for the exclusion from the record of hearing of argument.

(Question is read by stenographer)

The objection is overruled. The question will be allowed but it is desired that the Examining Inspector also develop from the witness the basis for this conclusion.

By Examining Inspector: I withdraw my question then and I will rephrase it.

Examining Inspector to Witness:

Q. Mr. Hewitt, are you familiar with the doctrines of the Communist Party during the period from 1927 to 1939?

By Counsel, Mrs. King: Objection to the question on the ground of its ambiguity and the fact that the character of the doctrines is not made clear.

By Presiding Inspector: Objection is overruled.

(Question is read by stenographer.)

A. (By Witness): Yes, sir, I am.

Examining Inspector to Witness:

Q. On what basis do you contend that you are familiar with the doctrines of the Communist Party during that period? A. First, as a result of being contacted by the

Communists on the N.Y.U. campus and in my home. Following this contact at the N.Y.U. campus, they were invited to my home and explained to me that the Communist Party stood for the rights of the Negro people. I felt very good about this because I saw in practice a demonstration against the exclusion of a Negro football player at N.Y.U., who was playing against Georgia—

By Examining Inspector: May I rephrase my question.

By Presiding Inspector: The question and answer must stand. You may put another question.

Examining Inspector to Witness:

Q. How did you learn the doctrines of the Communist Party during the period from 1927 to 1939? A. Following this, I was then recruited into the Party and sent to a school where I was given the fundamentals or the A B C of Communism. That included trade unionism, organization, Marxist, Leninist, and simple forms. Following this I was sent to the Lenin School where I had the more fundamental doctrines of the Party ingrained into me, and following this I became a teacher—and you know a teacher makes a good scholar—and in that manner I got a well rounded concept of what Leninist-Marxist theory stood for.

Q. When you refer to Marxist-Leninist theory, are you referring to Marxist-Leninist theory as practiced or as disseminated by the Communist Party of the United States? A. Yes.

Q. What was this Marxist-Leninist theory as used by the Communist Party of the United States? A. This theory espoused the overthrow of the capitalist form of government. It likewise espoused the right of self-determination for the Negroes in the Black Belt and the setting up of a dictatorship of the proletariat that would protect the gains of the working class after the revolution.

Q. How was the dictatorship of the proletariat to be accomplished in the United States? A. It was to be accomplished by following the lessons of the Russian revolution, in which the everyday demands of the masses would be catered to by the Party. The Party would come out for answers to their grievances on unemployment, even the woman's question. Each would serve as a brick toward consolidating that mass until that mass became sufficient in

number to storm the State machinery of the respective capitalist States and set up their own form of government.

Q. Will you describe the dictatorship of the proletariat as it was contemplated by the Communist Party during the period of your membership? A. Yes, sir. It was taken from the lessons of Lenin on the State, in which they describe the State as a weapon of the ruling class. In a capitalist country the weapon of the ruling class would be the capitalist State and in a proletarian State it would be the weapon there of the proletarian class. Therefore, it was necessary for us to follow the examples of the Russian revolution by destroying that weapon of the capitalist class, the capitalist State, and setting up our own state which would be known then as the dictatorship of the proletariat.

Q. How was it contemplated that the capitalist State would be destroyed? A. Repeatedly in all the works of Lenin and in all the works and pamphlets that you have just described and shown here, they constantly pointed out that it could never be done by peaceful means. They described this as class collaboration, criticizing the Socialists as Social-Democrats or Social-Fascists, and therefore in contrast to these peaceful means of election and parliamentarism they espoused a violent, bloody disruption of the State machinery, such as the Russians did in February of 1918.

Q. And what part was the Communist Party to play in this revolution? A. The Communist Party called themselves the vanguard of the working class. They called themselves the leaders of the working class. A disciplined people not separated from the masses—they placed themselves as an identity with the masses of the workers of the United States—but a disciplined group that would lead and direct them towards this course of violent upheaval.

By Presiding Inspector (To Witness): Your remarks are directed to the United States alone or all capitalist countries?

By Witness: All capitalist countries and specifically the United States.

Examining Inspector to Witness:

Q. Was there any contention that the United States was exempt from this revolution?

By Counsel, Mr. Englander: Objected to as being a leading question.

By Presiding Inspector: I will allow it.

By Counsel, Mr. Englander: Exception.

A. (By Witness): No. In the very words of Mr. Stalin—I personally heard Mr. Stalin make a report on this, on the United States, in which he pointed out the United States as the main citadel of capitalism. In this gathering there was present the General Secretary of the Communist Party of the U. S. A., Mr. Browder, and myself, and in later months the General Secretary of the Party, Mr. Browder, repeated this declaration of the Party's leadership.

By Counsel, Mrs. King: I object on the ground that the report of Mr. Stalin is undoubtedly printed and that the report speaks for itself, and that this testimony is not the best evidence of what was said on that occasion.

By Presiding Inspector: Objection overruled. These proceedings are not governed by the best evidence rule.

Examining Inspector to Witness:

Q. Where did this conversation take place? A. This conversation took place in the Communist International Headquarters in Moscow, 1932.

Q. And were you present personally? A. Yes, sir. Excuse me, I have documents to prove that I was present.

Q. And do you know whether Mr. Stalin's admonition was binding on Mr. Browder or on the Communist Party of the United States?

By Counsel, Mrs. King: Object to the question on the ground that there has been no testimony of any kind that there was any admonition made by Mr. Stalin.

By Presiding Inspector (To Examining Inspector): Rephrase the question.

Examining Inspector to Witness:

Q. Do you know whether Mr. Stalin's statement to Mr. Browder that you have just testified to was authoritative so as to be binding on either Mr. Browder or the Communist Party of the United States.

By Counsel, Mrs. King: I object to the question on the ground that a statement of the United States being the main citadel of capitalism is not and cannot be a binding statement on anybody.

By Presiding Inspector: Objection overruled. I will take the statement and this answer for what it is worth.

A. (By Witness): Yes, sir. It was binding not only to Mr. Browder but to the entire Party in the United States.

Examining Inspector to Witness:

Q. Were the decisions of the Communist International binding on the Communist Party of the United States so far as you know? A. Yes.

Q. Do you know of any instance in which the Communist Party of the United States with impunity failed to carry out any decisions of the Communist International? A. Yes, I do know. One was on the slogan that was decided by the Communist International in relation to China, for which Mr. Browder was severely criticized. Secondly, on the right of self-determination for the Negroes in the Black Belt. He was criticized because this was not carried out swift enough.

Q. Well, if he was criticized, then he did not deviate with impunity, did he? A. That's right.

Q. Do you know of any instance in which any member of the Communist Party failed to fall in line with the decisions of the Communist International? A. No. After a sharp discussion on policy, all of them fell in line.

Presiding Inspector to Witness:

Q. Do you understand the question as put by the Examining Inspector? A. I do.

By Examining Inspector: That will be all.

Cross examination—Associate Counsel, Mr. Englander, to Witness, George Hewitt:

Q. Are you employed at the present time? A. Yes, sir, I am.

Q. What kind of work do you do? A. I print—I run a multigraph machine.

Q. By whom are you employed?

Presiding Inspector to Witness: You may, if you desire, not disclose in this record your employment if you would rather not. However, if you have no objection, you may answer the question of counsel.

By Counsel, Mrs. King: I object to the interjection of the Presiding Inspector.

By Presiding Inspector: Your objection is noted and overruled.

By Counsel, Mr. Englander: I want it stated on the record that I want to proceed with this cross-examination in my own way.

By Presiding Inspector: The Presiding Inspector does not intend to interfere with your cross-examination, only to the extent that he deems necessary to keep the cross-examination relevant to the hearing and to exclude, as in this instance, something which might be harmful to the respondent and is not particularly helpful to the issues.

By Counsel, Mr. Englander: You are assuming facts of your own accord and I take objection to that.

By Presiding Inspector: Your objection is noted.

Mr. Englander to Witness:

Q. How long have you been employed on the present job? A. Five months.

Q. When did you start working on the present job? A. Five months ago.

Q. That would be approximately? A. About October, 1947.

Q. Now you testified in this same building on September 29, 1947. Is that right? A. Yes.

Q. And are you still employed in the same position? A. No.

Q. So on September 29, 1947 you were employed by Snell? A. Yes.

Q. And you changed your position when? A. About that time—shortly after.

Q. What is your profession—what sort of work do you do generally? A. Well, I have no profession outside of running now the machinery of the multigraph printing.

Q. Isn't it also your profession to be a professional witness for the United States Government? A. No.

Q. How many hearings have you testified at in behalf of the United States Government? A. Two.

Q. And this is the third? A. That's right.

Q. And on September 29, 1947 when you testified in the Santo case, didn't you say that you were a representative of the Government of the United States? A. I did not.

Q. You are positive about that? A. Very positive.

Q. Now, do you get paid by the Government of the United States for testifying? A. I do not.

Q. That is your own contribution? A. I mean I am subpoenaed. Are you referring to the time I lose here from my job?

Q. I am referring to the fact that you are getting paid here. A. No, I am not.

Q. When were you subpoenaed to come to testify in this proceeding? A. About a week ago.

Q. And when was the first time that you consulted Government Counsel, Mr. Roberts, in connection with the case? A. I think it was yesterday.

Q. Where? A. 70 Columbus Avenue.

Q. How much time did you spend with him? A. About three-quarters of an hour.

Q. Did Mr. Roberts state to you that in accordance with instructions from the Central Office you are to testify that you of your own knowledge know that the Communist Party of the United States and/or the Communist International during the period of this respondent's membership advised, advocated and taught the overthrow of the Government of the United States by force and violence? A. No, sir, that isn't true. He did not; Mr. Roberts did not.

By Mr. Englander: Your answer to that question was as truthful as your testimony, I suppose, today.

By Examining Inspector: I object to that. Even in cross examination there are some questions which are not allowable and that is a classic question which is not allowed in a court of law.

By Presiding Inspector: Objection is sustained. It is the determination of the Presiding Inspector that that question is vexatious only.

Mr. Englander to Witness:

Q. Now, Mr. Witness, I am reading from page 487 of the Santo hearing. Answer by Mr. Hewitt: "I am here to represent the United States Government." Well, did you or did you not give that answer at that time? A. Not in the way that the notes state there. It must be a technical error on the part of the typist. I couldn't say that. I came as a Government witness, but I did not represent the Government.

Q. Your testimony was taken down on a stenotype machine at that time, was it not? A. I don't know; I didn't see.

Q. You state you first joined the Party in 1927? A. That's right.

Q. Was that the Party or the Y. C. L.? A. The Young Communist League.

Q. When did you join the Communist Party of the United States? A. About 1927 or 1928.

Q. I said the first time that you joined the Party—in 1928—is that right? A. Yes.

Q. And your first official position was, as you state, as an agit-prop? A. Yes, Educational Director.

Q. Of the Williamsburgh Branch? A. That's right.

Q. What year? A. I became that in 1928.

Q. And your next position, if I recall your testimony correctly, was as secretary of the League of Struggle for Negro Rights in 1929 to 1930? A. Right, 1929 to 1930.

Q. Now your third position, if I remember correctly, was on the Central Control Commission of the Communist Party? A. That's right.

Q. And in answer to the Presiding Inspector's question, if I remember correctly, you stated that you therefore became a member of the National Committee of the Communist Party—that he did that by virtue of being on the Control Commission—you became a member of the National Committee of the Communist Party? A. Yes.

Q. And participated in discussions and decisions of the National Committee? A. Yes. I participated in three or four of such meetings.

Q. And that was what year? A. That was 1930.

Q. Now is the National Committee of the Communist Party superior in authority to the State Committee? A. Oh, yes.

Q. And that was a much higher committee, being on the National Committee than on the State Committee. Is that not right? A. Yes, that's right.

Q. So that it appeared from 1927, from the time you joined the Communist Party, in a period of two years you rose from a plain rank member of the Communist Party to the National Committee? A. Yes. Do you want the reasons?

By Mr. Englander: No.

Presiding Inspector to Witness: Please confine your answers to answering the question, and not asking the question.

Mr. Englander to Witness:

Q. But in 1934 to 1944 you were demoted, were you not, because during that period you stated that you were only on the State Committee. Did you or did you not say that? A. I said that.

Q. So you went from the National Committee to the State Committee, a lower body, did you not? A. That's true.

Q. Now you stated also that at one time you were active in the T. U. U. L. Is that right? A. Yes.

Q. Did you hold any official position there? A. No, not in the T. U. U. L.

Q. Did you say under direct examination that you were Secretary of the T. U. U. L.? A. No, Secretary of the Negro Commission of a unit which was a member of the T. U. U. L.

Q. And when did you go to the Soviet Union? A. The latter part of 1930.

Q. Under what name? A. I went under the name of George, no, Edward Jackson, to be exact.

Q. And did you obtain a passport from the United States Government? A. The Communist Party assisted me in that.

Presiding Inspector to Witness:

Q. Did you or did you not obtain a passport? A. Yes.

Mr. Englander to Witness:

Q. And under what name did you obtain the passport? A. Edward Jackson.

Q. And that was not your real name? A. Of course not.

Q. And did you swear to the application which you made out at that time? A. I did.

Q. And that was perjury, wasn't it? A. Not in my position.

By Examining Inspector: I object to this question. It calls for a conclusion on the part of the witness. Whether or not perjury is involved is a legal conclusion which is not within the knowledge of this witness.

By Presiding Inspector: Objection sustained.

Mr. Englander to Witness:

Q. You have somewhat of an education, have you not? A. Somewhat.

Q. You went to high school and New York University for two and a half years? A. That's right.

Q. And you read English well? A. Perfect.

Q. And did you read the application? A. No.

Q. Didn't even read it? A. No.

Q. Just signed your name to it,—is that right? A. Yes, the lawyer who was with me instructed me to sign.

Q. Where did you obtain the passport—what office? A. Let me see, I will try to recollect. I think we went down to some office in lower downtown New York at that time.

Q. Would you say it was in the Custom House or the Sub-Treasury Building? A. To be honest, I couldn't.

Q. It was a government building? A. I suppose so.

Q. And after you signed your name, or the name of Edward Jackson, to this application, were you asked to raise your right hand and swear that all the answers given by you on that application are true? A. I believe so. I can't recall any such procedure.

Q. And the answer which you gave there with regard to your name was not true? A. No, that wasn't.

Q. And the information which you gave there with regard to birth was not true? A. That's right.

Q. And with regard to your age was not true? A. My age was correct.

Q. So that you state now that although you were asked to raise your right hand and swear to the truth you

deliberately falsified those answers? A. I didn't say that. I said I didn't remember raising any right hand.

Q. What would you say is your understanding of the meaning of perjury? A. Well, at that time I was—

By Mr. Englander: At this time.

By Examining Inspector: Mr. Presiding Inspector, I object to that question. I believe it completely irrelevant to the issues in this case whether this witness understands the meaning of perjury.

By Presiding Inspector: Objection as to the relevancy is sustained. The facts stated by this respondent speak for themselves.

Presiding Inspector to Counsel, Mr. Englander: You may ask him the purpose of the swearing and you may establish all the factors that perjury was actually accomplished.

By Counsel, Mr. Englander: If there is an objection, if the man doesn't understand perjury, perhaps we didn't give him the right definition of perjury when he took the stand today, not only as to what happened five or ten years ago but as to what is happening today.

Presiding Inspector to Witness:

Q. Do you understand what the penalty for telling lie at a proceeding is after you are sworn to tell the truth? A. Definitely so.

Mr. Englander to Witness:

Q. Do you understand the meaning of perjury? A. I do.

Q. What is perjury? A. Perjury is simply lying.

Q. Under oath? A. Under oath, that's right.

Q. And you lied when you gave the wrong name on your application for your passport? A. Yes.

Q. And you did under oath? A. If it was an oathful procedure—because I had nothing to do with the mechanism of the obtaining of the passport.

Q. Then you took another oath some time ago, did you not, in 1930 when you left for the Soviet Union? A. That's right.

Q. What was that oath? A. That you are an American citizen and that your thoughts—I believe it was in this respect—that you do everything to support your country. Is that right?

By Mr. Englander: I am asking the questions.

By Witness: I am hazy—maybe you can refresh my memory.

Mr. Englander to Witness:

Q. You took an oath? A. I believe I did.

Q. You testified this morning you took an oath? A. Oh, yes, now I recall, an oath by the leadership of the Communist Party.

Q. I am asking whether you took an oath? A. Yes.

Q. What was that oath? A. They told me to raise my hand, that I would never desert the Communist Party, something to this effect.

Q. And that oath you broke—is that right? A. I believe I did, yes.

Q. Now how many students would you say were enrolled in the Lenin School during the period that you stayed there?

(By Witness): Do you mean the American students?

(By Mr. Englander): Students generally—yes, how many students?

A. I would say about 1,000.

Q. And how many students were from the United States? A. The United States had one of the largest "lander-groups" or representations. That would number close to 200.

Q. And were the courses taught in the Lenin School taken by all the students? A. Yes.

Q. All in one group—were they broken up? A. Yes, you had your American group, your Chinese groups, and your other groups.

Q. The very subjects which were taught—how many students would you say attended each class? A. Well, they had about—just repeat that question again, please.

(Question read by stenographer.)

(Witness continues his answer): I got the question clear now. I couldn't explain in one word. Some classes were larger and some were smaller. For example, while ten or fifteen would be in on the Russian, another group of the same American representation of twenty would be in on political economy—

Q. May I interrupt you, Mr. Witness. I am not asking how the American student body was broken up; I am asking whether they taught Marxism, Leninism, political economy or what not. What was the smallest attendance in the class—what was the largest attendance in the class from the entire world? A. The smallest attendance would go from twenty-five. The largest attendance would be 1,000.

Q. What courses would you say had the smallest attendance? A. Courses that dealt with the secretive espionage tactics where they were very careful even to protect certain people that they wanted to.

Q. They were the smallest? A. That's right.

Q. And where were the largest? A. The largest would be in the general quizzes in which 500 would attend, or the whole student body.

Q. Now in the smallest class where they taught espionage, uprising, as you allege, were there students from various nationalities or only one nationality? A. No, this pertained to the American group only. Students stood in their respective landergroup.

Q. So that in the group of students from the United States during the period that you attended from 1930 to 1932, twenty-five were taught, as you say, espionage and armed uprising? A. No. Everybody was taught that. They had several classes of the same lessons.

Q. So that the entire group of—how many American students did you say? A. Over 200.

Q. (Continuing) —were taught the same subjects? A. Yes.

Q. And would you say that the entire group of students from all over the world were taught the same subjects? A. Yes.

Q. You want this Presiding Inspector to believe that a responsible government would teach to such large groups the methods of armed uprisings. Is that correct?

By Examining Inspector: I object to that question as stating facts not in the record. I don't be-

lieve that there is any evidence that any government taught this. I believe that the record indicates that the Lenin Institute was conducted under the auspices of the Communist International.

By Presiding Inspector: Objection is sustained.

Presiding Inspector to Mr. Englander: Rephrase your question.

By Mr. Englander: Exception.

Mr. Englander to Witness:

Q. You want the Presiding Inspector to believe you when you say that in Moscow, the capital of the Soviet Union, 2,000 students were instructed by Red Army men—students coming from all over the world—they were instructed in the use of firearms, espionage, building barricades—all the students. Is that right? A. Correct.

Q. Now the National Committee of the Communist Party of the United States paid for your expenses? A. That's right.

Q. And they were pretty heavy? A. I assume so.

Q. Now when you came back to the United States you became a teacher. Is that right? A. Not right away. I became a Section Organizer of Long Island.

Q. Oh, yes, I am glad you reminded me. That was in Jamaica? A. That's right.

Q. And you became an organizer where, you stated in direct examination, in order to infiltrate the colleges and universities in that area? A. Yes, schools.

Q. Will you please mention the colleges and universities? A. We had the Hofstra University.

Q. Where is that university? A. I don't recollect exactly. I know that I met with the representatives, the Communists in that school.

Q. You have no idea even where the school is? A. I did; I can't recollect now because there were many other phases of work.

Q. Give us an approximate idea—what part of Long Island? A. No. I knew it was in Long Island.

Q. What other university? A. Well, there was Jamaica High School.

Q. University. A. I don't recall any other university.

Q. Then what you said this morning about infiltrating colleges and universities was not true? A. I would like to

explain that. We had representatives from Adelphi, another—

Q. Where is that college? A. I believe in some part of Long Island.

Q. You were Section Organizer of the Communist Party from Jamaica to Montauk Point. Is that right? A. Yes.

Q. And one of the principal jobs you said this morning was to infiltrate the universities and colleges? A. I had people doing that.

Q. But you don't even know where they were? A. I said they were in Long Island.

Q. I want to know what part of Long Island? A. Well, Adelphi was supposed to be in Garden City, somewhere in Garden City. It had an annex in Brooklyn—I am coming to that. We had people coming from Columbia University, meeting me in Jamaica and they carried out their social contacts there. So you had Columbia, Adelphi, N. Y. U., and it was just one merry body of a student's committee.

By Presiding Inspector: In view of the hour, the hearing is now being adjourned until tomorrow morning at 9:30, when the cross-examination will be continued.

Hearing adjourned.

R 2/18/48
T 3/3/48

I CERTIFY the foregoing to be a true and correct transcript of my shorthand notes of the testimony taken by me in the above case.

VIVIAN H. GARNETT
Stenographer

Record of Reopened Hearing, February 19, 1948

UNITED STATES DEPARTMENT OF JUSTICE

IMMIGRATION AND NATURALIZATION SERVICE
New York, N. Y.
File No. 99183/146

CONTINUED REOPENED HEARING

DATE:

February 19, 1948

PLACE:

70 Columbus Avenue, New York, N. Y.

Presiding Inspector:

GILBERT ZIMMERMAN

Examining Inspector:

MAURICE A. ROBERTS

Stenographer:

VIVIAN H. GARNETT

Respondent's Counsel:

CAROL KING, Attorney of Record
220 Broadway, New York, N. Y.

ISIDORE ENGLANDER, Associate Counsel
205 East 42nd Street, New York, N. Y.

Respondent:

PETER HARISIADES, with aliases: PANAGIOTIS HATZILIAS, PETE HAGELIAS, PETE HARRISON.

Presiding Inspector to Examining Inspector:

Q. Are you ready to proceed? A. I am.

Presiding Inspector to Counsel: Are you ready to proceed?

By Counsel, Mrs. King: Subject to my objections of yesterday, I am ready to proceed.

(Note: Short recess while Examining Inspector and Witness confer.)

Presiding Inspector to Counsel: You may resume your cross-examination.

Cross examination of Witness, George Hewitt, (continued):

Associate Counsel, Mr. Englander, to Witness:

Q Now, Mr. Witness, when you were called by the Government to testify in the Santo case, I presume that prior to your testifying you conferred with the Examining Inspector in that case. Am I correct? A. Yes.

Q. And were you told that one of the issues in that case was whether Santo was a member of the Communist Party. Is that right? A. Yes.

Q. Now when you conferred with the Examining Inspector in this particular case, did the Examining Inspector tell you as to what the issue—as to what testimony to supply? A. He didn't tell me what testimony to supply but he told me the nature of the case.

Q. And that you were being called as an expert on Marxist-Leninist theory. Is that right? A. Yes.

Q. Now did you discuss with him, or did he ask you as to what your qualifications were? A. Yes.

Q. And you have told him of the positions which you occupied while a member of the Communist Party? A. No.

Q. Which position did you emphasize to show that you are qualified? A. I generalized my position on the State Committee of the Party and I don't believe that I informed him of the National Control Commission. I could have, if I recall, because it was one of those hasty general discussions.

Q. Did you consider yourself an expert on Marxist-Leninist theory by virtue of what positions specifically, or what positions you held? A. By virtue of the position which the leadership of the Communist Party placed me in as teacher in the Workers School for a period of eight years, as teacher in secret schools where only very qualified Communists were permitted to teach, by teacher in trade union schools, by teacher in secret and open schools throughout the entire State over a period of ten years; by

virtue of the fact that the State leadership and the National leadership of the Party placed me in leading positions of importance, such as State representative to one of the biggest industrial areas of the State, where the Bethlehem Steel was situated; in view of the fact that they placed me in the Artists-Models Union to direct and guide them along the theory of Marxist-Leninist exposition; in view of the fact that they had me go around to places as far as Chicago and Philadelphia to not only teach classes but to direct and organize important secret units of the Communist Party.

Mr. Englander to Witness: Maybe that should qualify you as an expert on artists and models and not on the Leninist-Marxist theory.

By Examining Inspector: I object to the question as irrelevant.

By Presiding Inspector: Objection sustained.

Mr. Englander to Witness:

Q. Now, Mr. Witness, you did not understand the question, I am afraid. You enumerated specifically yesterday morning all the positions you held. I am not interested in your travels. You started out in Williamsburgh—you mentioned the positions. I want you to mention the positions and out of those positions pick out those which qualify you as an expert in Marxist-Leninist theory.

Presiding Inspector to Witness: Are you able to select from among the positions which you held, concerning which you testified yesterday, those which in your opinion best qualify you as an expert on Marxism-Leninism?

By Witness: Yes.

By Examining Inspector: Mr. Inspector, I object to that question as being irrelevant to the proceeding. Now this witness has testified as an expert and he has established himself as an expert on the basis—

(Mr. Englander attempts to interrupt.)

(Examining Inspector continues): I believe that he has established himself as an expert on the basis of the facts he stated on direct examination. I believe Counsel's question is completely irrelevant.

By Presiding Inspector: I will allow Counsel's question.

A. (By Witness) The first position that was mentioned that I believe qualifies me as an expert here is my position as Educational Director of the State Committee of the Party.

Presiding Inspector to Witness:

Q. What would you say is the position which next best qualifies you as an expert on Marxism-Leninism? A. The head of the Negro State Commission of New York; third, as an executive member of the Workers School of the Communist Party of the United States.

Presiding Inspector to Counsel, Mr. Englander: You may continue.

Mr. Englander to Witness:

Q. Haven't you forgotten to mention the National Committee? A. Yes, by virtue of being on the National Control Commission of the National Committee.

Q. And that was in what year? A. 1930.

Q. 1929-1930? A. That's right.

Q. That was the highest job, you testified, the National Committee? A. We didn't consider it in those terms. Usually the lowest unit is considered the most powerful.

Q. Would you say that your experience in the lowest unit is the most important one? A. From the measure of work and practical experience, the most trusted people are sent after a time to the lower units.

Q. Would you say that in 1929-1930 because you were sent to the National Committee, you were the least trusted individual? A. Yes—not the least trusted—no, not least trusted.

Q. Least trusted, is that it? A. Most trusted.

Q. And you were experienced at that time, right? A. No.

Q. So although you did not have any experience, as you say now, you were placed on the National Committee in 1929 and 1930?

By Examining Inspector: I object to that as stating a fact which is not in evidence.

By Presiding Inspector: I will allow the question.

A. (By Witness): In that period of 1929 to 1930 when orders came that certain Negro members be immediately sent to be groomed and prepared for as professional revolutionists, the leadership of the Communist Party in New York immediately took me and about twenty-four others and rushed us through various organizations in order to give their masters the written notice that we had gone through this. In the process of going through these organizations, we gained tremendous experience.

Q. So that in 1929 you had already gained that tremendous experience which resulted from this rushing process? A. On orders from Moscow.

Q. On orders from Stalin? A. That's right.

Q. But you gained that experience—that is what I want to know? A. Yes.

Q. And that's why it qualifies you, in your opinion, to testify as to what the policy of the Party was in 1929? A. No, you are wrong.

Q. Correct me, if you please. A. The thing that qualifies me is the fifteen after years of experience, see, in which I went through every phase of organization and agitational work of the Communist Party.

Q. Now let's get down to facts. Did you have any experience in 1929? A. Yes, a little.

Q. So that in 1929 you were on the National Committee of the Communist Party and when you testified in the Santo Hearing, you stated that you knew very little in 1929. Is that correct? A. I don't quite remember.

Q. Well, let me refresh your recollection. A. Please.

Q. On Page 478, at the bottom of the page:

"1929 was the first chance I saw him, either visiting the section—"

Remember giving that answer? A. Yes.

"Q. By Mr. Sacher: What section?

"The Witness: The section in Williamsburgh, you see, at which he made reports. I was very new at the time. I didn't know what it was all about."

Did you make that statement at that time? A. I believe I did.

Q. Though you were very new in 1929— A. That was considered new in Party circles. I was perhaps at the time this was taken less than five months in that particular area because I came from the Brownsville area and sent to Manhattan—

Q. As a matter of fact, Mr. Witness, isn't the difference in your testimony because here you are qualifying or trying to qualify as an expert, because over in the Santo hearing you were trying to identify someone? A. I don't understand that.

(Question read by stenographer)

A. (By Witness): I am not trying to qualify in attempting to establish a difference of any persons involved. I am just definitely stating what my lawyer brought me here to state.

Q. Precisely? A. Yes.

Q. As an expert? A. Yes.

Q. And that is why you placed yourself on the National Committee in 1929? A. No.

Q. Now when you returned from Moscow, how soon after that did you start teaching? A. Immediately, 1930.

Q. You testified yesterday, to refresh your recollection, that you first became organizer in Long Island? A. Well, as organizer that involved teaching.

Q. As a matter of fact, Mr. Witness, to refresh your recollection, when I asked you yesterday exactly the same question—you started teaching right after your return from Moscow—you said, no, I first became organizer of the Long Island area? A. That's right.

Q. I am just trying to establish the fact. And then you became State Educational Director and you began to teach? A. No, I went from the Long Island area to the union.

Q. When did you begin to teach in the Workers Schools and, as you call it, in the secret schools? A. I began to teach following the trade union in 1935.

Q. What subjects did you teach? A. A B C of Communism, Marxism-Leninism, the Negro question, trade union principles.

Q. And in which schools? A. In 1935—

Q. Throughout the period? A. Throughout the secret units and the public units, the Workers Schools, the County schools, State and National schools.

Q. You taught from 1935 until when? A. I was teaching throughout, until 1944.

Q. And the subjects which you taught, both in the workers and secret schools, were the A B C of Communism? A. No, they differed, for the subjects taught in the secret schools dealt with secret methods of organizational structure and the methods used to overthrow the government of the United States, to develop and lead uprisings, etc. The other subjects in the open schools, such as the Workers School in New York, dealt with general theoretical subjects.

Q. Page 471 of the Santo hearing—Remember being asked this question: "What did you teach?" And your answer was: "I taught at times two different subjects. One, the Negro question, others, Marxism and Leninism." Did you give that answer? A. I could have.

Q. Did you or didn't you give that answer? A. Is it in the book? Then I did.

Q. And that answer was in reply to a question by Mr. Boyd—is that right? A. I believe so.

Q. Now did you withhold any information from him? A. No.

Q. You didn't mention there about different subjects you taught between the open schools and so-called secret schools? A. Let me explain this.

Q. Did you or didn't you?

By Witness: Don't frighten me.

Presiding Inspector to Witness:

Q. Can you answer the question put, "yes" or "no"? A. No it can't be answered.

By Mr. Englander: I would like to be heard. This is cross-examination. You have ruled yesterday that the witness must answer questions directly and if he wants to elaborate, let him elaborate. Now you are permitting him to elaborate before he answers. This is going too far.

By Presiding Inspector: Your objection is overruled. If a witness cannot state a "yes" or "no"

answer, as this witness has just stated, then obviously he cannot do so.

By Mr. Englander: Let him state the reason then.

By Presiding Inspector: That is exactly what the witness was endeavoring to do and that is exactly what the Presiding Inspector was attempting to establish on the record.

Presiding Inspector to Witness: Explain the reasons why you cannot make a "yes" or "no" answer to the question.

By Witness: The reasons are that in the direct examination, according to the way I saw it in the time of the Santo trial, Mr. Boyd asked me directly how many subjects I taught in the Workers School, if that is correct. He did not ask me about the secret schools. Secondly, when you talk of Marxist-Leninist subjects, that involves two or three subjects. It can involve trade unionism, it can involve political economy, and it can involve the Negro question. I could have said just Marxist-Leninist. I taught one subject which could be broken down according to certain classes.

Mr. Englander to Witness:

Q. Let me refresh your recollection again, Mr. Witness. What I read to you before was on Page 471. Now on Page 470, one page back, Mr. Boyd doing the examination of you:

> "Q. What were your duties as Educational Director of the Communist Party during that period? A. Well, to assist in the various secret schools that they have had throughout the country, and throughout the state, particularly."

A. That's right.

Q. So there was a discussion of secret schools? A. I don't recall.

Q. I am reading to you. Does that refresh your recollection? A. Yes.

Q. So there was a discussion of secret schools? A. No, there was no discussion of secret schools.

Q. Let me read the answer to you again:

"Well, to assist in the various secret schools that they have had throughout the country, and throughout the state, particularly."

A. Yes, it is the same answer I gave.

Q. I am not asking what answer you gave over there; I am asking whether there was a discussion? A. That was a statement, not a discussion.

Q. What would you call a discussion? A. Oh, general talk that ranges for several minutes.

Q. Let me continue reading to you, Mr. Witness.

"Q. Tell us about those secret schools. A. Well, for example, in New York, I was sent several times to teach in schools that were secreted in Camp Unity, Camp Beacon. They had another camp up near Kingston, Bergman's Farm, Briehl's Farm, little places that were selected. And in these two particular places, Bergman's and Briehl's Farm, they specially emphasized the professionals and intellectuals, writers, actors, teachers, and they had courses there in which a number of us, including myself, were sent to teach."

A. Yes.

Q. Would you call that a discussion? A. You are right there.

Q. Well, there was a discussion about secret schools. Now let me read to you again the same question.

"Q. By whom were you sent? A. By the State Committee of the Party.

"Q. Of the Communist Party of the U. S. A.? A. Of the Communist Party of the U. S. A.

"Q. What did you teach? A. I taught at times two different subjects. One, the Negro question, others, Marxism and Leninism."

A. In the secret schools? Are you referring to the secret schools?

Q. Wasn't there discussion on the secret schools and wasn't Mr. Boyd asking you about secret schools? A. But you are confusing the secret schools, the question directed by Mr. Boyd, with the Workers School curriculum.

By Examining Inspector: I object to further continuation of cross-examination along these lines. If Counsel wishes to ask the witness anything with respect to the testimony, I think it proper that he refer to the testimony, but any reference to discussions only obscure the issues and confuse the witness, and I believe are out of place.

By Mr. Englander: The witness is plenty confused himself.

By Examining Inspector: I ask that that be stricken from the record.

By Mr. Englander: I ask that it stand.

By Presiding Inspector: Let it stand.

Presiding Inspector to Mr. Englander: Will you limit your examination as to this matter inasmuch as it has been, in the opinion of the Presiding Inspector, sufficiently explored—in other words, not too much further on this sphere.

Mr. Englander to Witness:

Q. The questions and answers which I have read to you, specifically the questions, did Mr. Boyd differentiate between secret schools or open schools? A. Not that I remember.

Q. Did you differentiate in the questions and answers which I have read to you, from secret schools and—

By Examining Inspector: I object to that question as the question as read speaks for itself.

By Presiding Inspector: I will allow it.

A. (By Witness): I did not differentiate which.

Mr. Englander to Witness:

Q. So this is the first time you are making a differentiation. Is that right? A. I was directed to do so. I was directed to do so by the Examining Inspector, that is, in questions here right before this court.

Q. Now in those secret schools, what was the composition of it, the student body, I am talking about? A. The composition, for example, in the Bergman's Farm School comprised picked Communists from the various colleges,

ranging from California to the East, in which they had over 100 students that attended this secret school. Some of them went to Briehl's Farm that were not far away. It was called somewhat of a summer professional school. The one at Briehl's Farm handled, I believe, high school teachers and the one at Bergman's Farm handled the college teachers. I know some very prominent people in colleges now who attended those schools.

Q. So would you say that in the secret schools the composition of the student body was professional teachers? A. That's right—intellectual traitors to the United States government.

By Mr. Englander: I move that that remark be stricken out.

By Presiding Inspector: I will allow it.

Mr. Englander to Witness:

Q. And it was those intellectuals that you taught the secret method, the secret way of overthrowing the Government of the United States? A. I didn't teach any—

Q. Yes or no? A. Don't frighten me.

Presiding Inspector to Witness:

Q. Mr. Witness, do you understand the question? A. No, I don't.

(Question read by stenographer as follows): And it was those intellectuals that you taught the secret method, the secret way of overthrowing the Government of the the United States (At this point Mr. Englander adds the following to the question) by force and violence?

By Witness: Yes, sir, all right, yes.

Presiding Inspector to Mr. Englander: If he chooses to expand on an answer, he may do so, Mr. Counsel.

By Witness: I was given instructions and a curriculum that was printed secretly by the National Committee on organizational procedure that is never taught in the Workers School. This was taught at Briehl's Farm. After three days with these people,

I was then sent over to Bergman's Farm where I had the same procedure, plus the Negro question.

By Mr. Englander: I think that the answer is not responsive. The explanation surely is not responsive.

By Presiding Inspector: I will allow it. The question was broad.

By Mr. Englander: Exception.

(Recess)

(Hearing Resumed.)

Mr. Englander to Witness:

Q. Now, didn't you testify in the Santo hearing just to the opposite, that you had to go, the Communist Party had to go very easy with the professionals, while those students who attended the schools in the basic industries you did not have to pull any punches? A. I believe I did, something to this effect.

Q. Now, I believe you say that it was the professionals that you taught the method of overthrowing of the government of the United States by force and violence? A. No. You are confusing it again, Mr. Atturney.

Q. Well, you mentioned the secret schools—I enumerated them from your testimony in the Santo hearing. Those were the secret schools? A. No, they were not all the secret schools. They didn't ask me about the basic industry schools. I don't believe they did, did they?

By Mr. Englander: I will read it to you.

By Witness: Please.

Mr. Englander to Witness:

Q. Page 473:

"Q. What was the second type of school? A. Well, the second type dealt basically with people who were scheduled to do basic work, going into basic industries—"

A. That's right.

Q. (Mr. Englander continues quoting answer from Page 473 of Santo hearing):

> "They were not professionals or intellectuals because they were handled in a sort of kid-glove fashion, to bring revolution openly to them was, as I remember, while teaching there, in one of these professional schools * * *"

And then you go on to enumerate, and on Page 474 you continue with your answer:

> "But in dealing with the fellows who worked in the various plants and industries, selected from all over the country at times to come to these secret schools in camps and some part time schools at night and in the evenings, it was a different matter. We didn't have to pull punches. We simply taught what Lenin was supposed to have written there, and, in short, it meant a revolutionary overthrow of the United States Government and the setting up of a dictatorship of the proletariat."

Do you remember giving that answer? A. That's right.

Q. So that in the Santo case you said the professionals were handled with kid gloves? A. That's right.

Q. But now you say these same professionals, you taught the violent overthrow of the Government of the United States? A. The answer is yes. Then we considered the intellectuals important for violent overthrow—now I do too.

Q. But did you consider them on September 29, 1947? A. Yes. For your information the Communist Party regarded different methods to approach different people. Even with the Negroes, who might be a professional or a basic industry worker, our approach to him had to be different than our approach to a white worker.

Q. I am not asking you what the Communist Party felt or did; I am asking you what your answers were on September 29, 1947 and what your testimony is today. A. It is the same thing.

Q. Well, you used the word "kid-glove" for professionals then, didn't you? A. Well, I still say that we were taught

to handle them with kid-gloves, and that with the people in the factories we could be more direct.

Q. So you used kid-gloves for the purpose of overthrowing the Government of the United States by force or violence? A. To the intellectuals, that is correct. We considered that the professional and the intellectual, who usually came from the middle class type of people, were afraid of bloody revolution and we couldn't give them blood as we were taught in the circles of the leadership of the Communist Party, and they had to be gradually brought in. Usually we tried to develop one who could work upon another, in another college, in another school, and this is the method we used.

Q. But you did use kid-gloves in teaching the professionals—yes or no? A. Yes.

Q. Now, in your opinion, the using of kid-gloves in teaching intellectuals the overthrow of the Government of the United States would be sufficient to overthrow the Government of the United States by force and violence? A. My answer is no; it wasn't sufficient. They were an important link, with the working class being the basic vanguard.

Q. Did you ever use any arms in the United States for the purpose of overthrowing the Government of the United States—yes or no? A. No.

Q. Did you ever build barricades in the United States? A. No.

Q. Did you ever take any part in any armed uprising against the Government of the United States? A. No.

Q. You were taught all these things in school, in the Lenin School? A. That's right.

Q. Now, wasn't there a time-table set for the overthrow of the Government of the United States by the Communist Party of the United States? A. Not specifically, not specifically.

Q. Wasn't there any time at all? A. They became very slap-happy at one time—

(Question read by stenographer.)

(Witness continues) Yes, they became very slap-happy around the years 1929-1930 and before, and had slogans that were sent openly, in Union Square.

Presiding Inspector to Witness: What was the time-table?

By Examining Inspector: I object to your interrupting the witness. He is answering the question as best he can.

By Presiding Inspector: Objection overruled.

Presiding Inspector to Witness:

Q. Can you fix it? A. Yes. The slogan called for—it said, "Defend the Soviet Union! On to a Soviet America!" When I got to Russia, at this conference that Stalin had wth Browder, I heard him severely criticize the leadership for an inopportune slogan. He stated that the American leadership had attempted to give an immediate slogan and confused it with an ultimate aim slogan, so the American leadership of the Communist Party were giving impressions to the people that revolutions were around the corner in these slogans that were considered incorrect by the Russian leaders because the American people were not ready for it.

Mr. Englander to Witness:

Q. And actually the ultimate aim might be ten, twenty, fifty, a hundred years or more. Is that correct? Yes or no? I want first a "yes" or "no" answer and then he can elaborate.

Presiding Inspector to Witness: Can you give a "yes" or "no" answer?

By Witness: No.

Presiding Inspector to Witness: Then make your answer.

A. (By Witness): The slogan of setting up a Soviet America was definitely impressed upon us, that this would materialize in a very short time, to such an extent that they even had the uniforms in the basement of 12th Street, the Red front uniforms of the German Communist Party, with the red caps, where they came there Sunday mornings and were practicing warfare and how to set up barricades.

Mr. Englander to Witness:

Q. What year was that, did you say? A. That was—to be exact—that followed, I think it was March 1930, before

March 1930. Before that, you see, because I was permitted to get a peek, of this military training in the basement of the Communist Party headquarters.

Q. And how big would you say that building was? A. Well, it was a square block, where the press is now.

Q. As a matter of fact, Mr. Witness, don't you know that the Party headquarters at that time was on Union Square and not on 13th Street? A. What I said was, on 12th Street.

Mr. Englander to Witness: There was no 12th Street headquarters at that time.

By Examining Inspector: I object to Counsel shouting a statement at the witness.

By Presiding Inspector: Objection sustained.

(To Mr. Englander): Put your question in the form of a question.

Mr. Englander to Witness:

Q. Mr. Witness, now as a matter of fact wasn't the Communist Party headquarters at that time in Union Square and not on 12th Street? A. I believe, Mr. Commissioner, that the attorney is correct—

By Mr. Englander: That is all. That finishes the answer.

By Witness (continuing): It was on the day of my return that I went directly to State headquarters and was taken to the basement and saw this on a Sunday morning. The years confuse me. Excuse me for getting them a little confused.

Mr. Englander to Witness:

Q. So that now you say, what year was it? A. That was on my return.

Q. What year? A. 1932.

Q. And not 1930? A. No.

Q. You mentioned the year 1929 as being a time when slogans were put out. Is that right? A. Slogans were put out before that.

Q. But 1929 was the first time that you said that the revolution was scheduled to take place in the United States?

A. Every year they impressed us that it was around the corner, from 1929. That is when I became cognizant of the fact that the slogan, "Set up a Soviet America", meant revolution.

Q. Mr. Witness, you testified in the Santo hearing about the time-table set up. Do you remember that? A. Vaguely.

Q. Shall I recall your recollection? A. Yes.

Q. And did you state at that time, as well as you stated today, that the first date set was 1929? A. I didn't say it was 1929 specifically. I said they had certain times and then they constantly changed it.

Q. When didn't you say it was 1929 specifically? A. I said that I first saw the slogan around 1928-1929.

Q. (Mr. Englander reads from the Santo hearing): Page 502:

"Q. Can you give us some specific dates that were fixed for the overthrow of the United States? A. 1929, they had—everybody saw it in Union Square, where the Klein Store was—a big sign."

So you did say at that time that the first time that the revolution, so far as you know, was set to take place in the United States was 1929?

By Examining Inspector: I object to that question as misstating the testimony quoted.

By Presiding Inspector: Objection sustained.

Mr. Englander to Witness:

Q. I will read the question and answer to you again, Page 502, from the testimony in the Santo hearing:

"Q. Can you give us some specific dates that were fixed for the overthrow of the United States? A. 1929, they had—everyboby saw it in Union Square, where the Klein Store was—a big sign."

Wasn't the year 1929 referred as the answer to a question which was asked a while ago? A. I referred to the slogan.

Q. Was there any word in the question about a slogan? Tell me where the word "slogan" appears in the question: "Can you give us some specific dates that were fixed for the overthrow (of the government) of the United States"? A. Yes, the slogan that was on Union Square.

Presiding Inspector to Witness:

Q. The point of the question was: Is there in the question, "Can you give us some specific dates that were fixed for the overthrow (of the government) of the United States", any reference to a slogan in that question? A. No.

Mr. Englander to Witness:

Q. Now your answer, "1929", and then you go on, "they had—everybody saw it in Union Square, where the Klein Store was, a big sign". Weren't you referring to 1929, the specific date set for the overthrow of the government of the United States—yes or no? A. As I said before, that slogan was there even before 1929. It was there as far back as 1927, as I recall, in the Sections and in Union Square.

Presiding Inspector to Witness:

Q. Does your statement, as read to you, where you referred to 1929—did that refer to the date of the revolution or did it refer to the slogan? A. This called for an immediate revolution, the slogan. Whether it was up 1929, 1927 or 1929, it was calling for an immediate revolution.

Mr. Englander to Witness:

Q. And that that you referred to as the date set for the overthrow of the government of the United States—

A. (By Witness): Every member of the Communist Party thought that.

(Mr. Englander continues)—was on Union Square above Klein. Is that right? A. That's right.

Q. Now, Mr. Witness, let's go back to this peek that you took in 1932. Now, how many did you see there parading with arms and uniforms? A. I think there were about close to 300 people, you see.

Q. And did you consider that force strong enough to overthrow the government of the United States by force and violence—yes or no? A. Yes, but let me finish now. The reason I thought so was because they informed me

they had 100 other units in various other parts of New York.

Q. So that you now have 30,000 specially picked men training in New York City alone? A. That's right.

Q. And they were picked men?

By Examining Inspector: I object to this question as predicated on a statement of facts not in the record.

By Presiding Inspector: Objection sustained.

Mr. Englander to Witness:

Q. Were they picked men?

By Examining Inspector: I object to this question as predicated on a statement of fact not in the record. This witness testified that he was informed that there were 100 other cadres.

By Presiding Inspector: Objection sustained.

Mr. Englander to Witness:

Q. Would you say that the 300 which you saw was sufficient to overthrow the government of the United States? A. No.

Q. But you believed that there was a real danger that the Government of the United States might be overthrown at that time because you were informed that there were 100 other similar groups. Is that right? A. That is not exactly right because my experience showed that there were even less in Russia that did damage to even bigger cities.

Q. Can we confine ourselves to the United States and not to Russia?

By Presiding Inspector: The witness need not answer that question.

Mr. Englander to Witness:

Q. You believed at that time that there were 100 other similar units ready to overthrow the United States by force and violence. Is that right? A. All of them talked that way.

Q. Did you believe that? A. Yes.

Q. Now these men that you saw, you say were specially picked men. Is that right? A. Yes.

Q. Would you say they had to be trusted by the Communist Party? A. Definitely.

Q. All members of the Communist Party? A. No.

Q. Not all members? A. No.

Q. There were just a few intellectuals thrown in—is that right? A. There could have been.

Q. Many or just a few? A. Quite a few—about the same number that they recruited for the Spanish Loyalist Brigade.

Q. What was the total vote that the Communist Party received in or about the 1932 election?

By Examining Inspector: I object to that question as completely irrelevant.

By Presiding Inspector: I will allow it.

A. (By Witness) In New York State, about sixty to 70,000.

Mr. Englander to Witness:

Q. What was the total membership in the Communist Party throughout the United States in 1932? A. I guess about 40,000.

Q. So that out of 40,000 throughout the United States, there were 30,000 that you believed training in New York State alone?

By Examining Inspector: I object to that question as stating facts which have not been in the record.

By Presiding Inspector: Objection sustained.

Mr. Englander to Witness:

Q. Now from 1932 until 1944 you were a trusted member of the Communist Party? A. Until 1944, yes.

Q. But the only time you saw any armed militia trained was in 1932 when you were permitted to peek just once? A. No. After that I saw them several times.

Q. You didn't mention that? A. No.

Q. That was an afterthought, just like you changed your testimony from 1930 to 1932. Is that right? A. How do you construe that.

Q. Well, originally, you were positive that this armed uprising were training in the building on 13th Street in 1930, but on cross-examination you found out that the Party headquarters was on Union Square; you changed your testimony. Is that right? A. No. I just said I had the dates of the time wrong but it wasn't a deliberate attempt to conceal anything.

Q. But you also mentioned before only one incident, when you were permitted to peek? A. My first idea—

Q. You said you were permitted to peek once? A. When I first returned.

Q. Well, how mny peeks were you allowed?

Presiding Inspector to Witness: Can you answer the question?

A. (By Witness) Not peeks, definite looks.

By Examining Inspector: I object to such question.

By Presiding Inspector: I sustain the objection.

By Witness (continuing): Three or four, I believe.

Mr. Englander to Witness:

Q. So that from 1932 until 1944 you were a trusted member of the Communist Party and were permitted three or four looks into this training of men. Is that right? A. That's right.

By Mr. Englander: I have no further questions of this witness.

By Examining Inspector: I have some redirect.

Redirect examination of Witness, George Hewitt:

Examining Inspector to Witness:

Q. Mr. Hewitt, have you been paid any money by the United States Government to testify in this proceeding? A. I haven't been paid but I have signed agreements to be paid.

Q. You signed agreements to testify as an expert witness? A. Yes.

Q. And as a result of your testimony and those agreements you expect to be paid an expert witness fee? A. Yes.

Q. Mr. Hewitt, you testified yesterday that I interviewed you before you took the stand in this case. Is that right? A. Yes.

Q. Did I tell you what to say?

Mr. Englander: Mr. Presiding Inspector, I want the record to show that at no time was there any implication on my part that Mr. Roberts in any way told this witness what to say.

A. (By Witness) No, sir.

Examining Inspector to Witness:

Q. You have testified in behalf of the Government in how many immigration cases, Mr. Hewitt? A. Two.

Q. And this is the second? A. Yes.

Q. And you have been interviewed by other employees of the Government besides myself, have you not? A. Yes.

Q. On any of these occasions have you been told what to say? A. No, sir.

Q. Have you testified in behalf of the Government in any cases other than deportation proceedings? A. Yes, sir.

Q. How many? A. One, the Marziani case.

Q. Were you interviewed by employees of the Government before you testified in that case? A. Yes.

Q. Were you told by those employees what to testify to? A. No.

Q. Now, Mr. Hewitt, you testified yesterday that when you made application for a passport you made the application in a name other than your own. Is that correct? A. Yes.

Q. Why did you do this? A. I was instructed by the leadership of the Communist Party.

Q. At that time did you follow all instructions of the leadership of the Communist Party? A. Very much so, yes, sir.

Q. Was that one of the tenets of the Communist Party? A. Yes, sir.

Q. And were you told why you should use an assumed name? A. Yes, sir. Because I had to travel in countries

that had Fascist armies and to protect myself I was instructed to use an assumed name.

Q. Now, yesterday your attention was called to a statement appearing as part of your testimony in the Santo case, in which the following answer on your part appears at 487:

"I am here to represent the United States Government."

I call your attention to the following questions and answers which precede that quoted answer. Question by Counsel for the respondent in that case:

"Q. You just caught on, didn't you? That is why on cross-examination you began to say it was 1942 or 1943. You are now recalling that Santo was in the Army. A. I don't have to catch on, Mr. Sacher."

"Q. Well, let me see whether you do or not. A. I am here to represent the United States Government."

Q. (continued.)

"Q. Let me see whether you have to or not. Do you recall when Santo went into the Army?"

Was it in that connection that you made the answer, "I am here to represent the United States Government?" A. Yes.

Q. Have you ever purported to represent the United States Government in any official capacity as an employee? A. No.

By Examining Inspector: That's all. Oh, one more item.

Examining Inspector to Witness:

Q. Mr. Hewitt, do you recall on cross-examination yesterday the question was raised as to whether Red Army officers actually taught at the International Lenin School in Moscow? A. Yes.

By Mr. Englander: I submit that was not the question. The question was whether Red Army officers taught him in the use of hand-grenades, in the use of arms, and in the way of building barricades.

That is what he testified to and that was my question. I move to strike out the answer.

By Presiding Inspector: Objection is overruled. It will be the Presiding Inspector's interpretation of the question as referring to the issue raised rather than a specific question.

By Mr. Englander: Exception.

Examining Inspector to Witness:

Q. Mr. Hewitt, do you have any evidence that Red Army officers were present with you and teaching? A. Yes, sir.

By Counsel, Mrs. King: Object to the question and move that the answer be stricken upon the ground that that is not an issue in this case.

By Presiding Inspector: Objection overruled.

(Recess.)

(Hearing Resumed.)

Examining Inspector to Witness:

Q. Will you produce that evidence? A. Yes.

Q. You have just handed me two photographs. I show you one of these photographs. Will you identify this?

By Counsel, Mr. Englander: I object to it upon the ground that the photograph is not in evidence yet.

By Examining Inspector: I am laying the basis for it.

By Presiding Inspector: Objection overruled.

Examining Inspector to Witness:

Q. Mr. Hewitt, when was this photograph taken? A. This was taken in 1930.

Q. And where was it taken? A. This was taken in the city of Vlagavangenz (phonetic), Siberia.

Q. And are you on that picture? A. Yes, sir.

Q. Do you recall when the picture was taken? A. Shortly before this period here, about a couple of days before—1930.

Q. What was the occasion of the taking of this picture?

By Counsel, Mr. Englander: I object to that, incompetent and irrelevant.

By Presiding Inspector: Objection overruled.

By Counsel, Mr. Englander: Exception.

A. (By Witness) For the secret files of the school.

By Counsel, Mr. Englander: I move to strike out the answer as not being responsive.

Examining Inspector to Witness:

Q. Why was the picture taken? A. We represent here students of the school and our instructors. It was a class picture of students and instructors.

Q. Of students and instructors at what school? A. The International Lenin School.

Q. And can you identify any of the instructors on that picture?

By Counsel, Mr. Englander: Objected to upon the ground that the document is not in evidence.

Presiding Inspector to Examining Inspector: Are you going to offer it in evidence?

By Examining Inspector: Mr. Presiding Inspector, I offer this photograph in evidence and I ask leave to substitute the photostatic copy and withdraw the original when that is done. I am not offering in evidence the statement appearing in the Russian language on the reverse side.

By Counsel, Mr. Englander: No objection.

By Presiding Inspector: The photographic copy of this picture will be marked in evidence as Exhibit 31.

Examining Inspector to Witness:

Q. Now, Mr. Hewitt, where did you get this photograph? A. I received this from the Commander himself.

Q. Is he on this picture? A. Yes.

Q. Will you identify him? A. No. 7.

Q. Referring to No. 7 on this photograph, I see the numeral "7" appearing next to an individual on the right side of the picture, who has curly hair and is dressed in a

uniform with a very wide collar, on each lapel of which appears a Red star. Is that the individual you are referring to who gave you this picture, personally? A. Yes.

Q. And do you recognize the uniform he is wearing? A. Yes.

Q. What uniform is that? A. That is the Second in Command of the Far Eastern Forces.

Q. Of what army? A. Of the Red army.

Q. And do you know whether or not the gentleman in this uniform on this picture was a member of the Red Army forces? A. Yes, sir. He was the second in command of the Red Army Forces in the Far East.

Q. And is he one of the Red Army officers who taught you at the Lenin School? A. Yes.

Q. I notice several other persons on this photograph who appear to be in uniform. Can you identify the uniform? A. Those are naval uniforms of the Red Navy.

Q. And what were those personnel of the Russian Navy doing at this school? A. This individual is the only one assigned to the school (pointing to No. 5 on the photograph) as an instructor, and this gentleman (pointing to the figure on the lower left-hand corner of the photograph) was the Stationary Commander of the River Amur Forces of the Red Navy.

Q. But what was this chap doing at this school at that time? A. They came back and forth.

Q. To do what? A. To instruct students, lecture, to advise them about tactical warfare.

Q. You mean he was also an instructor (referring to this chap on the lower left-hand corner)? A. No.

Q. Why was he in this picture? A. Well, we were on our practical work and he was one of the Commanders that we brought to confer with.

By Examining Inspector: That's all on this.

Examining Inspector to Witness:

Q. The second photograph which you just handed me, will you please identify that by telling me when and where it was taken? A. This was taken in Moscow.

Q. When? A. The year of 1931, the latter part of 1931.

Q. How did you get it? A. I got it through one of the other members of the delegation.

Q. What delegation? A. The delegation that had returned from the Far East.

Q. And what was the occasion of the taking of this picture? A. This was a picture for the school files.

Q. And who are the individuals?

By Counsel, Mr. Englander: Objected to as incompetent and irrelevant whenever a witness is asked about a paper which is not in evidence.

By Presiding Inspector: Objection sustained.

Examining Inspector to Witness:

Q. When you refer to the school files, what school are you referring to? A. The International Lenin School in Moscow.

By Examining Inspector: I offer this photograph in evidence and ask that this be deemed marked, and ask that a photographic copy thereof be accepted and marked as an exhibit.

By Counsel, Mr. Englander: This is objected to because it does not identify anything or anybody. He received it from someone else and therefore the document is not admissible.

By Presiding Inspector: Objection overruled. It will be accepted for what it is worth. A copy of this photograph will be marked in evidence as Exhibit 32.

Examining Inspector to Witness:

Q. Can you identify the individuals on that photograph? A. Yes.

Q. Who are they? A. This individual sitting is the same chap sitting next to me on the other photograph (pointing to the seated figure in the lower left part of the photograph).

Q. Who are the other two individuals on this photograph who are wearing uniforms? A. This individual instructed us in cavalry methods (pointing to the standing person on the left). This individual instructed us (pointing to the standing figure on the right), he instructed us on machine gun warfare, the use of German pistols.

Q. Can you identify the uniforms worn by the individuals in this photograph? A. These are Red Army uniforms.

By Presiding Inspector: We will adjourn for lunch and resume at 1:30 P. M.

(Recess.)

(Hearing Resumed.)

By Presiding Inspector: We will proceed on further cross-examination.

Counsel, Mr. Englander, to Witness:

Q. The agreement which you had with the United States Government to be paid as a witness—how much money are you to be paid? A. I believe it was decided to pay me $25.00

Q. Twenty-five dollars a day? A. I believe so, every time I appear.

Q. And you had that agreement yesterday? A. No, about a week ago or so.

Q. But yesterday you knew about this agreement? A. That's right.

Q. And when I asked you whether you were getting paid you said, nothing but your expenses as a witness. Is that right? A. Yes.

Q. Now $25.00 a day is witness fee? A. Yes.

Q. But it became necessary to correct that this morning—is that right?

By Examining Inspector: I object to that question. That is an argumentative question.

By Presiding Inspector: It is permissible on cross-examination.

A. (By Witness) I don't recall correcting anything.

Mr. Englander to Witness:

Q. Just before we adjourned—we recessed for lunch—didn't Mr. Roberts ask you whether you had an agreement to be paid for the testimony which you gave yesterday and today? A. That's right.

Q. And you said you had such an agreement? A. Yes.

Q. Didn't Mr. Roberts state it was necessary to clarify that you said yesterday? A. I don't recall that Mr. Roberts said that.

Q. How old were you when you were instructed, as you say, to sign the name which you did on the passport application in 1930? A. Twenty-two.

Q. Twenty-two years old? A. Yes.

Q. And how long had you been a member of the Communist Party at that time? A. Already two and a half to three years.

Q. And by what name were you known in the Communist Party during that period? A. Tim Holmes.

Q. Were you known by the name of George Hewitt in the Communist Party? A. In the beginning, yes.

Q. For how long a period of time were you known in the Communist Party as George Hewitt? A. About five months.

Q. Now it was during the time when you were in the Williamsburgh Section? A. In the Y.C.L. and the Party of the Williamsburgh Section.

Q. And you didn't use the name George Hewitt in your application for a passport? A. I didn't.

Q. And you were not well-known by that name, were you, the name George Hewitt? A. I was by the leaders of the Party.

Q. Were you known in Fascist countries in Europe by the name of George Hewitt? A. Not necessarily. I don't know how their espionage service works.

Q. Throughout the period of time that you studied in the International Lenin School, what would you say was the number of days during which you received instructions from the army and the naval officers? A. We had one month vacation in a whole year. Between that time we had twice—three times a week, practical instruction from the Red Army officers.

Q. During your vacation? A. During the time other than on vacation.

Q. Three times a week? A. That's right.

Q. How many hours a day? A. This involved—this, rather, stretched, for example, the machine gun structure, taking off and putting on the gun, and so on. We would

be with this one Commander for about three or four hours. When it came to cavalry we would go into the woods for five or six hours. When it came to pistol warfare and use, sometimes we were in lectures and observations for the whole day. It varied.

Q. So you were taught the art of naval warfare. Is that right? A. To a small degree.

Q. Cavalry warfare? A. Cavalry, yes.

Q. Armed warfare? A. In so far as it affected cities, yes.

Q. How about aerial warfare? A. They taught theory of aerial warfare.

Q. What about heavy guns? A. In heavy guns we were instructed from light .22's and so on.

Q. So would you say that a major part of your instructions while you were attending the International Lenin School consisted of naval and warfare tactics. Is that right? A. No, not warfare in the sense that you mean it, but uprising tactics.

Q. And then when you came back from the Lenin School you taught Marxism-Leninism and the Negro question in the United States. Is that right? A. Yes.

Q. Now during the two years or the time that you were in the Soviet Union, did you do any travelling? A. Yes.

Q. Considerable travelling? A. I wouldn't say considerable.

Q. Did you travel, did the entire school travel or only a few? A. No. The school had practical work; the students all had various itineraries to go. That was one of the phases of practical work.

Q. Did they all travel at the same time or did smaller groups travel? A. Smaller groups went to various parts of the country.

Q. Now when you were in the city, the name of the city which you have mentioned, how many of the students from the Lenin School were with you at the time? A. All in the picture.

Q. And No. 7 that you identified on this picture was the second in command of the Far Eastern Forces? A. That's right.

Q. And he was the one who spent his time, or the second in command to the Far Eastern Forces, to teach seven

students? A. There are four students here (referring to the photograph).

Q. And the second officer in command of the Far Eastern Forces of the Soviet Union taught you and the four others. Is that right? A. He taught us, with 1,000 others.

Q. There were 1,000 others at the same time? A. No. We were selected from that 1,000 to go with him to the Far East on practical work. This was an annual occasion.

Q. Now on this picture (Exhibit 32), will you please tell us what rank this army man had? A. They were in charge of regiments.

Q. What rank did the army man have? A. The equivalent of a General or Commander. I mean a General in the United States Army, known as Commander in Russia.

Q. And this was taken out of the secret files of the Lenin School?

By Examining Inspector: I object to that question as stating facts not on the record.

By Presiding Inspector: Objection sustained.

By Counsel, Mr. Englander: Exception.

Mr. Englander to Witness:

Q. Which one of these pictures did you say was taken out of the secret files? A. I didn't say any was taken out.

Q. What did you say about the secret files? A. I said they were made for the school secret files.

Q. So this is a picture, a duplicate, or whichever way you want to call it, that was made for the secret files of the Lenin School? A. I believe both of them are originals.

Q. Now this is Exhibit 32 in evidence and all you see on it is two Army officers and some gentleman? A. No, it is not some gentleman. It is the same German student in the picture with me.

Q. During the time that you were in the Soviet Union, were a considerable number of tourists there from all over the world? A. Not in the areas I touched.

Q. You were in Moscow? A. Yes.

Q. Were there a considerable number of tourists in Moscow? A. Yes.

Q. And was it a practice of tourists to take pictures of various army men and other governmental officials? A. Prohibited, the Russians would say.

Q. You are positive about that? A. Definite.

Q. Would you be surprised or would you change your answer if I told you that in my house there is a picture of my wife and a Red Army officer taken in Moscow about 1931 or 1932 although my wife did not attend the International Lenin School and was simply there as a tourist? A. It would be quite a surprise.

Q. Would you then change your answer or not? A. No, I wouldn't change my answer.

Q. So it wasn't that strictly prohibited? A. It was definitely prohibited to take pictures with the leading cadres of the Red Army.

Q. What is there to indicate on Government Exhibit 31 that No. 7 is a leading cadre of the Red Army? A. That is his name on the back, Commander Trifikienko, or something to that effect. He was the second in command of Commander Bluker's forces.

Q. Is there anything but his name on it? A. Well, it was a greeting to me.

Q. Besides that, is there anything next to his name, his official capacity or rank? A. Yes, Comrade.

Q. Is there his rank? A. No.

Q. So we have nothing but your word that he is second in command of the Far Eastern Forces? A. If you want to put it that way, yes.

Q. Now you remember this morning when you changed or corrected your testimony, as you would probably want to put it, on cross-examination with regard to the first peek which you had in 1930 and then changed it to 1932. Do you remember that? A. I do.

Q. And did you correct your testimony the same way when you were caught in a lie in the Santo case when you realized that when you placed him in a certain house that he was then in the armed forces of the United States?

By Examining Inspector: I object to this question as being predicated on a set of facts which is not in the record.

By Presiding Inspector: Objection sustained.

Mr. Englander to Witness:

Q. On page 484 of the Santo hearing, Question, according to the attorney, Mr. Sacher:

"Q. Between 1942 and 1943, you saw him for the first time? A. That is right.

"Q. And I suppose that made a deep impression on you at the time, is that right? A. It did.

"Q. Having made a deep impression on you, can't you tell us whether it was one year or the other, whether it was 1942 or 1943? A. No, I still say around that time."

Question on page 486 by Inspector Phelan:

"Q. Now, what is your best estimate of the period prior to that that you saw the respondent, Santo, at this meeting that you speak of? Can you tell us just how far in advance of your leaving the organization?"

The Witness: "I know that it was prior to the time that Santo left for the Army, you see."

Mr. Sacher: "You just caught on, didn't you, Mr. Holmes, that Mr. Santo was in the Army in 1943, didn't you?"

The Witness: "How do you mean, just catch on?"

Mr. Englander to Witness:

Q. (continued) Just like you caught on this morning when I pointed out that in 1932 the Party headquarters was in Union Square and not on 12th Street?

By Examining Inspector: I object to that question as being predicated on a set of facts which is not in the record. The quotation which Counsel has just made from the record in the Santo case indicates that it was Mr. Sacher, the attorney, who stated, "You just caught on". It was not—

By Presiding Inspector: Objection sustained.

By Counsel, Mr. Englander: Exception. That is all.

By Examining Inspector: I have no further questions.

Presiding Inspector to Witness, George Hewitt:

Q. Mr. Hewitt, during the period of time, from about 1929 to 1944, when you were in the Communist Party, as you

have testified, did you have any other occupation than the work that you did in the Communist Party? A. No, sir.

Q. With regard to Exhibit 18, the membership book of a member of the Communist Party which you identified, can you explain the caption appearing therein, "Extracts from the Statutes of the Communist Party of the U. S. A.?" A. Yes, sir. This was certain parts of the general by-laws and decisions that the Communist Party had arrived at through its respective conventions and for the benefits of the members it was given in simplified form, or the important factors of the by-laws were so printed here so that each member could simply understand what he was doing.

Q. Then these extracts quoted here constituted in 1930 provisions which were binding so far as the Communist Party of the U. S. A. was concerned? A. Yes, sir.

Q. To the best of your knowledge, were the same extracts printed in all the books of the Communist Party in or about 1930? A. Not all of the books. In certain books that pertained to the constitution and the by-laws.

Q. I mean the membership books which were issued to members of the Communist Party—did these extracts appear in all such membership books? A. Yes, sir.

Q. Is this quotation of Section 4 entitled, "The Structure of the Party", appearing in this Exhibit 18, setting forth that the Communist Party like all Sections of the Comintern is built upon the principle of democratic centralism and setting forth those principles, identical with the principles of democratic centralism set forth in the constitution of the Communist International, appearing in Paragraph 5, Section I, of the Constitution of the Communist International contained in the "Program of the Communist International", Exhibit 5? A. Definitely.

Q. To the best of your knowledge and belief, was this principle of democratic centralism, as set forth in Paragraph 5 of the Constitution of the Communist International, which I quote: "'After a decision has been taken by the Congress of the Communist International * * * the decision must be unreservedly carried out even if a part of the Party membership or of the local Party organizations are in disagreement with it", binding upon the Communist Part, of the U. S. A.? A. Yes.

Q. So far as all of the provisions of this Constitution of the Communist International, were they in full force and effect and binding upon the Communist Party of the

U. S. A. during all the period that you were a member, from 1929 until 1940 when the Communist Party withdrew from the Communist International? A. Yes, sir. They were in effect up until that time when illusions were created to impress the people of the world that the Communist International had broken its part. It was not, but I know that secretly the same decisions were in effect because we met couriers and emissaries who came directly from Russia even after that time, and no less a man than Mr. Eisler did—I had very personal meetings with—and brought decisions.

Q. Am I to understand from the last part of your answer that even after 1940, decisions or instructions of the Communist International were brought to the United States from emissaries of the Communist International? A. Yes.

Q. Do I also understand from the answer which you have just given that the action of the Communist Party of the U. S. A. in 1940 withdrawing from the Communist International did not break the relationship which had previously been in effect between the Communist Party of the U. S. A. and the Communist International? A. Definitely not.

Q. Can you state, if you know, what the purpose was for this public declaration of the disestablishment of this relationship by the Communist Party of the U. S. A. in 1940? A. To build up the democratic front forces in the event that a war should materialize against the Soviet Union, to make sure that the American people were the allies of Russia in that event.

Q. Do you know whether or not the action of the Communist Party of the U. S. A. in disestablishing or separating itself from its relationship with the Communist International in 1940 was done with the approval of the Communist International? A. Yes, sir, it was.

Q. Do you know of the expulsion from the Communist organization of the so-called Lovestoneite faction in 1929? A. Yes, sir.

Q. Could you state briefly the principal reason why that faction was put out of the Communist Party of the U. S. A.? A. The leadership of the Communist International and the American leadership that really took the place of Lovestone agreed that Mr. Lovestone had developed a dangerous and erroneous theory as far as the class struggle and the American capitalist State was concerned. They felt that

he took a Bukharin-like approach, which meant that he was rattled by the enormous productive and economic development of America, and he saw America so strong economically that she was out of the sphere of world economics and could not become a part of the world industrial crisis that Stalin had enumerated in the previous Congress of the Communist International.

They termed this in simple words, American exceptionalism, and for that reason Mr. Lovestone was—especially after the crisis and the slap-happy individuals thought this was the time for the barricades and they were coming out on the streets—and for that reason Mr. Lovestone was expelled.

Q. Was he expelled from the Communist Party because he declined to comply with the directions of the Communist International?

By Counsel, Mrs. King: I respectfully object to the question of the Presiding Inspector upon the ground that the question is leading. The witness has given the answer. The Presiding Inspector is disappointed.

By Presiding Inspector: I will overrule the objection.

By Counsel, Mrs. King: Exception.

A. By Witness: I do not believe that Mr. Lovestone was directly expelled for his erroneous Marxian position as they called it. It was an indirect reason, but the direct reason was the fractional strife there, with Mr. Foster and Mr. Browder able to get to Stalin, resulting in the degradation, character assassination of the character of the man and his expulsion.

Presiding Inspector to Witness:

Q. How do you know this information? A. I was in the womb of this whole dirty warfare. I was in the cesspool of this.

Q. By your answer, do you mean that at the time that this factional fight was proceeding in the Communist Party of the U. S. A., you observed these differences? A. Yes, sir.

Q. In all the teachings that you were personally given, either under the jurisdition of the Communist Party of the

U. S. A. or in the International Lenin School in Moscow, were you ever taught that the Communist Party of the U. S. A. desired to achieve the establishment of the dictatorship of the proletariat by peaceful and democratic means, such as election of a majority in Congress? A. No, sir.

Q. What were you taught was the doctrine of the Communist Party as to how the dictatorship of the proletariat was to be established in the United States? A. I was taught that under no condition must I deviate to the social democratic concept of peaceful collaboration with the ruling class. This was considered traitorous to the working class, and in its place I must proceed as a Bolshevik to work, organize, agitate the masses, that the only solution to their so-called misery was the absolute violent overthrow of the capitalist State machine.

Q. In all the instruction that you ever received under Communist Party auspices, were you ever told that force and violence would be used by Party members only after the proletariat under the leadership of the Communist Party had seized power in the United States? A. No, sir. I was told that it was necessary to use it before and after.

Q. Was it explained to you why it would be necessary to use force before the proletariat under the direction of the Communist Party of the U. S. A. seized power in the United States? A. Yes. There was explained to us in all the writings and instructions I received that it would be a farce to trust any agency of the bourgeois state, which meant the police, the various intellectuals, the professional people, the doctors, and the various servants of the State. They had to be done away with and in their place were to be sent people who were representatives of the working masses.

Q. In the document, "The Communist Party in Action", by Alex Bittelman, which is in evidence as Exhibit 24, there appears on page 28 the following passage, which I quote:

> "You have undoubtedly observed that the Republican and Democratic Parties, notwithstanding their apparent disagreements and 'opposition' to each other, really belong to one and the same category. This category is the so-called two-party system of the capitalist class of the United States. Already in 1912 Lenin analyzed the meaning of this two-party system, showing that it is through both of these

parties that the capitalist class rules the United States."

Was the teaching of the Communist Party which was communicated to you personally to the same effect as this passage which I have quoted from the pamphlet in evidence? A. Very definitely so.

Q. I now refer you to the document, "State and Revolution", by V. I. Lenin, which is in evidence in this proceeding as Exhibit 20, and invite your attention to the following passage which appears on page 14 thereof, and I quote:

> "The omnipotence of 'wealth' is thus more *secure* in a democratic republic, since it does not depend on the poor political shell of capitalism. A democratic republic is the best possible political shell for capitalism, and therefore, once capital has gained control * * * of this very best shell it establishes its power so securely, so firmly, that *no* change, either of persons, or institutions or parties in the bourgeois republic can shake it."

Does this passage represent the teachings of the Communist Party of the U. S. A., which was personally communicated to you, as to the attitude of the Communist Party towards the democratic republic presently in existence in these United States? A. Yes, sir. This is the crux of their whole development.

Q. Referring again to "State and Revolution", the document in evidence as Exhibit 20, I invite your attention to the following sentence appearing on page 31, and I quote:

> "The forms of bourgeois states are exceedingly variegated, but their essence is the same; in one way or another, all these states are in the last analysis inevitably a dictatorship of the bourgeoisie."

Were the teachings of the Communist Party which were personally conveyed to you to the effect that the existing government in these United States is in effect a dictatorship of the bourgeoisie? A. Yes, dictatorship of the bourgeoisie and they went on even to say, a dictatorship of capitalism.

By Examining Inspector: Mr. Presiding Inspector, I have hesitated to enter any objection to your line of questioning because, frankly, I think I know

what you are trying to ascertain, but I do object unless the witness is called upon to testify as to the doctrines and teachings of the Communist Party not as of the present but as of the period of the respondent's membership therein. I assume that that is what you are asking the witness, but there have been several references in your questions as to the present government, from which the witness might infer that you are referring to the present time and it is not the present time which is in issue but the period of Mr. Harisiades' membership in the Communist Party.

Presiding Inspector to Witness:

Q. Directing my reference to the present government in the United States in the questions which I put to you, does your answer remain the same, understanding that my references to the present government of the United States refers to the government as it had been at least during the period 1929 through 1939? A. Yes.

Q. Referring again to the pamphlet, "State and Revolution", I invite your attention to the passage appearing on page 34 thereof, and I quote:

> "Today, both in England and in America, the 'pre-condition' of any real people's revolution, is the *breakup*, the *shattering* of the 'ready-made State machinery' (brought in those countries between 1914 and 1917, to general 'republican' imperialist perfection)."

In the teachings of the Communist Party which were personally taught to you under the jurisdiction of the Communist Party, was it made clear to you that a doctrine of the Communist Party was that the pre-condition for establishing a dictatorship of the proletariat here in these United States was the breaking up and the shattering of the ready-made state machinery in operation in these United States, at least during the period 1929 through 1939? A. Very definitely so.

Q. I invite your attention again to the pamphlet, "State and Revolution", on page 68, whereon appears the following:

> "No, democracy is *not* identical with the subordination of the minority to the majority, *i. e.*, an

organization for the systematic use of *violence* by one class against the other, by one part of the population against another.

"We set ourselves the ultimate aim of destroying the State, *i. e.*, every organized and systematic violence, every use of violence against man in general."

Now, in this identification in this passage which I have quoted to you of democracy with State, was that a teaching of the Communist Party of the U. S. A., as communicated to you by schools of the Communist Party of the U. S. A.? A. Yes, sir, an elaborated form. It simply spoke of the difference between a proletarian democracy and a capitalist democracy as you espoused it in this book.

Q. And in this passage stating "we set ourselves the ultimate aim of destroying the state", was this likewise a teaching of the Communist Party of the U. S. A., which was communicated to you personally? A. Definitely so.

Q. During the years that you were a member of the Communist Party, particularly those prior to 1939, after the period in which the Party had issued the slogans of immediate revolution, to which you referred in your testimony, did you ever learn why the Party was not presently, that is, of those current times, endeavoring to use force and violence to establish the dictatorship of the proletariat in these United States? A. Yes, I did. I learned why.

Q. Will you state what you were told in that respect? A. Yes. I was told that in accordance with the decision of an international plenum at which Stalin spoke, the American Party was criticized for the inopportune time advising such slogans, that the American people were not mature—more preparation was needed to get them to the pitch of fever heat and more organization was necessary in the mills, the factories, in the Army and the Navy.

Q. Then, am I to understand from your answer that after the Communist Party of the U. S. A. was criticized, as you have mentioned, it was the determination of Communist strategy that the time was not yet ripe in the United States for the use of force and violence? A. Yes, sir.

Q. Were you ever given to understand that force and violence would not be used in establishing the dictatorship of the proletariat in the United States at such time as the Communist Party deemed conditions right? A. No, and if any member ever expressed that opinion that it would

never—force and violence and the shattering of the capitalist state does not have to take place—he would be open for expulsion from the Party.

Q. Now, is it correct that the Communist Party of the U. S. A. predicted that capitalism in the United States would decay? A. Yes, sir. They predicted on the basis of the inherent, as they say it, the inherent contradictions that exist here between the productive forces, which were the masses of the people, and the powers that be, which were the capitalists and its state machinery, and this contradiction, arising out of the industrial phase of our country, would develop to the phase of imperialism, then it would come back and squash, weaken all these developments of the capitalists, on one hand declining, and the workers becoming stronger as a result of developing, and that is the time to really open the eyes and push the masses for the establishment of the proletarian dictatorship, shattering of the capitalist state machinery, and the establishment of the proletarian state dictatorship.

Q. Now, while this course of events was predicted by the Communist Party of the U. S. A., was it stated to you or were you taught that the Communist Party would sit idly by and permit the course of historical events to take their run and then inherit the chaotic situation? A. No. Leninism teaches very fundamentally that there must be a vanguard to push the dying corpse, which was symbolic of capitalism, off the edge of the cliff. It had to be pushed off; it could not decay of its own free will.

Q. Then, am I to understand that a fundamental Leninist position held by the Communist Party of the U. S. A., during the time that you were a member, was that the Communist Party of the United States would have to take active steps to assist this historical process, to push the corpse over the cliff, as you state? A. Yes, sir.

Q. In other words, the position of the Communist Party in the United States was not merely a matter of predicting, but actually actively working towards that goal. Was that correct? A. Yes. They called that the ultimate strategy and the actual tactics, the everyday work of activity, would bring this tactic up to its ultimate strategy.

Q. In the event the United States became involved in a war not involving the Soviet Union, what were the teachings of the Communist Party personally communicated

to you with regard to the role of the Communist Party and all Communist members during such war?

By Counsel, Mrs. King: I object to the question on the ground that there is no showing anywhere that there were any teachings in reference to a war not including the Soviet Union.

By Examining Inspector: I call your attention to Exhibit 28, an article from "The Communist" for July, 1929, which contains something definite with respect to imperialist wars.

By Presiding Inspector: Objection overruled.

By Counsel, Mrs. King: May I say that if the question had been worded, with reference to imperialist war, I would have had no objection to it. That is exactly my point.

Presiding Inspector to Witness:

Q. Was it the position of the Communist Party that any war that the United States might become involved in, other than a war against Russia, would be an imperialist war? A. Yes, sir. Any war that America, that the United States became involved in outside of a war with the Soviet Union is considered an imperialist war, in which we as the vanguard of the working class were to energetically work to persuade, through the Navy, the Army, and the masses to turn their guns down and kill and murder these capitalists and leaders of the capitalist states who sent us into war, and setting up a dictatorship of the proletariat through the means of the war.

Q. In other words then, was it the teaching of the Communist Party, which was communicated personally to you, that were the United States to become involved in a so-called imperialist war, the Communist Party would attempt to create a civil war in the United States and establish a dictatorship of the proletariat here in the United States?

By Counsel, Mrs. King: I object to the question on the ground that it is leading, and in the second place, that the doctrines expounded in the question put by the Presiding Inspector are not the doctrines set forth in any of the exhibits received in evidence in this case.

By Presiding Inspector: Objection overruled.

Presiding Inspector to Witness: Please answer the question.

A. (By Witness: Yes, sir, exactly.

Presiding Inspector to Witness:

Q. Can you explain what is meant by the term "political strike?" A. A political strike is that strike that has already developed from an economic phase and has taken on a political significance, that is, that it has succeeded in arousing masses of the people around their economic conditions and has gone to the point where the people in the vicinities will arise around the political questions of the day.

Q. I invite your attention to the "Program of the Communist International", which is in evidence in this proceeding as Exhibit 5, and to the following passage appearing on page 80 thereof and I quote:

> "This mass action includes: A combination of strikes and demonstrations; a combination of strikes and armed demonstrations and finally, the general strike conjointly with armed insurrection against the state power of the bourgeoisie. The latter form of struggle, which is the supreme form, must be conducted according to the rules of military science."

Was it the teaching of the Communist Party of the U. S. A., as conveyed to you personally, that when the time was ripe in these United States, the means whereby the dictatorship of the proletariat in these United States would be established would be by this mass action, which appears in the quotation which I have quoted to you? A. Yes, sir. Every economic struggle was developed to the point of political mass action for the purpose of weakening any phase of the capitalist state machinery.

Q. Were you specifically taught that the way the dictatorship of the proletariat would be established in the United States would be by the political general strike conjointly with armed insurrection against the state power of the United States? A. Yes, sir, definitely.

Q. In the Communist organizational structure, was the World Congress of the Communist International, known as the Comintern, the supreme authority? A. Yes, sir.

Q. Was the Executive Committee of the Communist International, also known as the E. C. C. I., the small group appointed by the World Congress which was the supreme authority during the periods when the World Congress was not in session? A. Yes, sir. They were known familiarly as "ECCI".

Q. And was the Presidium of the Executive Committee of the Communist International that small group of members of the Executive Committee of the Communist International who functioned with supreme authority when the Executive Committee was not in session? A. Yes.

Q. And when a directive was received in the United States from either the World Congress of the Communist International or the Executive Committee of the Communist International, or the Presidium of the Communist International, was such a directive binding upon the Communist Party of the U. S. A.?

By Counsel, Mrs. King: Objected to upon the ground that the question is leading.

By Presiding Inspector: Overruled.

A. (By Witness): Definitely so.

Presiding Inspector to Witness:

Q. And when a directive was received in the United States of either the World Congress, or the Executive Committee, or the Presidium of the Communist International, was the Communist Party of the United States bound to approve and effect the provisions of such directive? A. Yes.

Q. By my questions I am referring to the period, of course, when the Communist Party of the U. S. A. was a Section of the Communist International, and that is the way you understood my questions. Is that correct? A. Yes, sir.

Q. There appears in the Constitution and By-Laws of the Communist Party, adopted in May, 1938, which is in evidence in this proceeding as Exhibit 4 and which you have identified, Article II, Affiliation, wherein appears the following:

"Resolutions and decisions of international congresses shall be considered and acted upon by the supreme authority of the Communist Party of the

U. S. A., the National Convention, or between conventions by the National Committee."

Could you explain what effect this had in relation to what we have just discussed? A. The effect that it had was the fact that, as you read here, this definitely bound us to the decisions as espoused by the top leadership of the International "ECCI" and Presidium.

Q. Am I to understand from your answer that by this provision of the 1938 Constitution which I have quoted to you, the National Convention or between conventions, the National Committee, of the Communist Party of the U. S. A. had to consider and effect the resolutions and decisions of the World Congress, or the Executive Committee, or the Presidium of the Communist International? A. Yes, sir, every decision handed down.

Q. Were you every given to understand in all the teachings of the Communist Party which were communicated to you personally that the "Program of the Communist International" had only limited application to the United States and the Communist Party of the U. S. A.? A. No.

Q. What was your understanding of the application of the "Program of the Communist International" to the Communist Party of the United States? A. I don't quite get the concept of your question.

Q. I will rephrase it. There appears in the "Program of the Communist International" on page 36, the following which I quote:

> "The conquest of power by the proletariat does not mean peacefully 'capturing' the ready-made bourgeois state machinery by means of a parliamentary majority. * * * The conquest of power by the proletariat is the violent overthrow of bourgeois power, the destruction of the capitalist state apparatus (bourgeois armies, police, bureaucratic hierarchy, the judiciary, parliaments, and so forth) * * *."

Were you taught that these passages which I have just quoted to you had full application in the United States? A. Denfiitely so.

By Presiding Inspector: That is all I have.

Presiding Inspector to Examining Inspector:

Q. Do you have any more direct? A. No.

Presiding Inspector to Counsel:

Q. Do you have any further cross examination? A. (By Mr. Englander): Yes.

Counsel, Mr. Englander, to Witness:

Q. Mr. Witness, in reply to the Presiding Inspector's question with regard to the Lovestone period, as you would call it, that was what year? A. Well, that ranged for a number of years, from 1927 to 1929.

Q. And you stated the information which you gave to the Presiding Inspector was of your own knowledge—is that right? A. Yes.

Q. Do you recall testifying in the Santo hearing, referring to the period 1929: "I was very new at the time. I didn't know what it was all about". Do you remember testifying that? A. Yes.

Q. I am reading now from Government's Exhibit 5, the "Program of the Communist International", page 80, top of the page:

> "In determining its line of tactics, each Communist Party must take into account the concrete internal and external situation, the correlation of class forces, the degree and stability and strength of the bourgeoisie, the degree of preparedness of the proletariat, the position taken up by the various intermediary strata in its country etc. The Party determines its slogans and methods of struggle in accordance with these circumstances, with the view of organizing and mobilizing the masses on the broadest possible scale and on the highest possible level of the struggle."

Were you taught that while you were a member of the Communist Party? A. (By Witness): In the early stages?

Br. Mr. Englander: You answered very readily when the Inspector asked you questions about this pamphlet.

By Witness: What years does that cover?

By Mr. Englander: You know what years were covered when the Presiding Inspector asked.

By Witness: About seven or eight years after I returned from the Soviet Union.

Presiding Inspector to Counsel, Mr. Englander: The witness apparently does not understand your question. Would you repeat it or rephrase it?

Mr. Englander to Witness:

Q. From the "Program of the Communist International", Government's Exhibit 5, from which the Presiding Inspector read to you a number of passages before:

> "In determining its line of tactics, each Communist Party must take into account the concrete internal and external situation, the correlation of class forces, the degree of stability and strength of the bourgeoisie, the degree of preparedness of the proletariat, the position taken up by the various intermediary strata in its country etc. The Party determines its slogans and methods of struggle in accordance with these circumstances, with the view of organizing and mobilizing the masses on the broadest possible scale and on the highest possible level of this struggle."

Now, I am asking you, during the period that you were in the Communist Party, were you taught that? A. This is the "Program of the Communist International", the Sixth World Congress, 1930?

By Mr. Englander: Why didn't you ask the Presiding Inspector before when he asked you questions with regard to this pamphlet?

Presiding Inspector to Witness: The pamphlet which he is talking about is from the Sixth World Congress.

By Examining Inspector: May I suggest that the witness be given the physical possession of the exhibit.

By Mr. Englander: I don't want to give him the exhibit.

Presiding Inspector to Witness: Now, he has quoted from the Sixth World Congress and he is quoting from that, and the question is, was that par-

ticular passage that he is quotin gthere taught to you?

By Witness: Yes.

Mr. Englander to Witness:

Q. Now, the Presiding Inspector read to you from this same exhibit, the following:

> "The conquest of power by the proletariat does not mean peacefully 'capturing' the ready-made bourgeois state machinery by means of a preliminary majority * * *."

Three dots, the Inspector said, indicating that he is leaving something out.

> "The conquest of power by the proletariat is the violent overthrow of the bourgeois power, the destruction of the capitalist state apparatus (bourgeois armies, police, bureaucratic hierarchy, the judiciary, parliaments, etc.) * * *."

And you answered that was taught to you. Is that right? A. That's right.

Q. Now, would you say that the following was taught to you while you were a member of the Communist Party, and I will read the whole thing you you:

> "The conquest of power by the proletariat does not mean peacefully 'capturing' the ready-made state machinery by means of a parliamentary majority. The bourgeoisie resorts to every means of violence and terror to safeguard and strengthen its predatory property and its political domination. Like the feudal nobility of the past, the bourgeoisie cannot abandon its historical position to the new class without a desperate and frantic struggle. Hence, the violence of the bourgeoisie * * *", etcetera.

Wasn't that taught to you while you were a member of the Communist Party? A. Yes.

Q. Do I remember correctly that you stated yesterday that "The Communist" is the official organ of the Communist Party of the U. S. A.? A. Yes. It was the official magazine.

Q. Now, I ask you to look at this one, or any one of The Communists and state where it says it is an official organ of the Communist Party? A. It states that it is published monthly by the Communist Party of the United States.

Q. Where does it state that it is an official organ? A. It does not say so. It just says it is published monthly by the Communist Party of the United States.

Q. And you assumed from that that it was official? A. Yes. I met with them in the makeup of it.

Q. You were a busy little guy when you were a member of the Communist Party, weren't you? A. A little bigger than your respondent.

Q. And every article which appeared in "The Communist" would have issued—it might represent the official views of the Communist Party? A. Definitely.

Q. None of the articles were for the purpose of discussion? A. Only discussion within the National Committee of the Bureau of the Communist Party, and if rejected they never appeared.

Q. Now, when I questioned you about your position on the National Committee, you said that the lowest position of the Communist Party was the more powerful, wasn't it? Didn't you say that this morning? A. I believe I said something like that, but in a different sense, based on the theory of democratic centralism.

Q. What do you understand by democratic centralism? A. That the lower the body, the more powerful and democratic it is, with a discipline that forces them to abide by the laws that the people that they elected put out.

Q. So that, if I understand you correctly, this answer means that when an article appeared in "The Communist" and, as I said before, for the purpose of discussion it was already approved by the top leadership and then it was submitted to the lower strata for discussion. Is that right?

By Examining Inspector: I object to that. That is predicated on a set of facts not in the record.

By Presiding Inspector: Objection sustained.

Presiding Inspector to Witness: That is all. Excused. Thank you very much for appearing.

(Witness, George Hewitt, excused; leaves Hearing Room.)

(Robert Pitcoff called as a witness.)

The Government presents Robert Pitcoff as second witness:

Presiding Inspector to Second Witness:

Q. Will you stand up, please, and raise your right hand. Do you solemnly swear that all the testimony you will give will be the truth, the whole truth, and nothing but the truth, so help you God? A. I do.

Q. Will you sit down? (Witness complied.) You are informed that if you knowingly or wilfully give false testimony at this proceeding, you may be prosecuted for the crime of perjury, the penalty for which upon conviction is not more than five years imprisonment and a fine of not more than $2,000. Do you understand? A. I do.

Q. What is your full, true and correct name? A. Robert Pitcoff.

Presiding Inspector to Examining Inspector: You may proceed.

Examining Inspector to Second Witness, Robert Pitcoff:

Q. Mr. Pitcoff, have you ever used or been known by any other name or names? A. I have had a pen name. A few articles I have written under the name—while in the Communist Party—under the name of Strong, and during a short period was known under that name.

Q. That was a Party name? A. One. I was also known in the Party continuously as Robert Pitcoff.

Q. When did you become a member of the Communist Party of the United States? A. I became a member of the Communist Party during the latter part of 1926; I believe it was October or November.

Q. And when did you terminate your membership in the Communist Party of the United States? A. During the latter part of 1934, September or October, 1934.

Q. Was your membership between these two dates continuous? A. Continuous.

Q. That is, you were continually a member between 1926 and 1934? A. Exactly.

Q. What unit did you join? A. Well, when I joined I was assigned to a residential section and unit. That was in the Bronx where I lived at the time. My first unit of entry was Unit 5 of Section 5.

Q. And have you ever occupied any office or official position in the Communist Party? A. Well, I had several official positions.

Q. What was the first official position that you occupied in the Party? A. My first official position in the Party was as official Unit Organizer of Unit 5 of Section 5

Q. And when were you Unit Organizer of this Unit? A. Shortly after my entry, probably the early part of 1927.

Q. And for how long did you continue to be Unit Organizer of this Unit? A. As I recall it, practically a year or so, or a little less.

Q. And what were your duties as Unit Organizer? A. My duties at the time were to keep the organizational structure of the Unit functioning, as prescribed by the Party and also, in conjunction with that, to see that all the auxiliary functions of the Unit functioned in conformity to the Party's desires.

Q. What were these auxiliary functions that you referred to? A. There was a financial secretary that collected the dues and he was under the jurisdiction of the Organizer. There was a literature agent who was disseminating literature to the Party membership and also displaying it at whatever mass meetings, functions, outside the Party that were held at the time.

Q. Was this literature agent subordinate to you in the Unit? A. He was.

Q. And was it your responsibility to see that he performed his functions? A. As I understand it, he was.

Q. As you referred to the literature which was disseminated, were you required to be familiar with the literature which was disseminated by the literature agent? A. Definitely so.

Q. And were you familiar with the literature which was so disseminated? A. I was.

Q. Do you now recall any of the literature which was then disseminated? A. I do.

Q. What was the next official position that you held in the Communist Party? A. The next position was what was known as a Fraction Secretary of the trade to which I had belonged, which was part of my profession.

Q. What is a fraction? A. A fraction is a unit of Party members, or rather members of the Communist Party that functioned as a unit, disciplined unit, in the various trade unions or industries in which they worked.

Q. Was a fraction an integral part of the Communist Party? A. Yes, the same as the trade union.

Q. As Fraction Secretary you were then an official of the Communist Party? A. That's right.

Q. And for how long a period were you Fraction Secretary? A. I think about two years. About 1926 or 1927, perhaps even a little longer, 1927, 1928.

Q. Did you occupy any other official position in the Communist Party? A. Yes, for a time I was also the Section Organizer of Section 5. I believe that was during the year of 1929 or thereabouts.

Q. For how long were you Section Organizer of Section 5? A. For about eight months or a year, maybe less. I don't remember exactly, but I was taking the place of a Section Organizer that had been unable to function for a while.

Q. And what were your duties as Section Organizer? A. To coordinate the activities of all the unions in our Section. My recollection was that we had five unions then and the work of these unions was to be coordinated.

Q. As Section Organizer, was it necessary that you know the doctrines and teachings of the Communist Party as of that time? A. Not only as Section Organizer, but as Party member it was incumbent upon me to know the doctrines and teachings of the Communist Party.

Q. As Section Organizer, did you have any particular duties with respect to the doctrines and teachings of the Communist Party? A. My responsibility was to see that the doctrines and the teachings of the Communist Party were properly applied in the daily work of the Units of the Communist Party of that Sectoin.

Q. The Units which were under your supervision? A. Yes.

Q. And were you required to be familiar with the literature of the Party? A. Yes, definitely so.

Q. And were you familiar with the literature of the Party at that time? A. I was.

Q. And do you now know what literature in the Party was then circulated? A. I do.

Q. Of your own personal knowledge? A. Of my own personal knowledge.

Q. Did you occupy any other official position in the Communist Party? A. Yes. I was subsequently made the National Secretary of the Building Trades Fraction of the

Communist Party, which was a position that entailed the coordination of the work of the Communist Party members in the building trades throughout the United States.

Q. As Fraction Secretary, were you an official of the Communist Party? A. Yes.

Q. And for how long did you occupy this position of National Secretary of the Building Trades Fraction? A. I was appointed before the Cleveland Convention; I think that was 1929, and subsequently I functioned for about two years in that capacity.

Q. And as National Secretary of the Building Trades Fraction, was it necessary that you know the official doctrines and teachings of the Communist Party as of that time? A. Yes.

Q. And did you know them as of that time? A. Yes.

Q. Did you have any further official position within the Communist Party? A. 1932, the latter part of 1932 I was appointed by the Party to become the District Secretary of the Building Trades Fraction of the Communist Party in New York City. That was the last position that I held in the Party.

Q. How long did you hold this position? A. Well, until my resignation in 1934, pretty near two years.

Q. Did you attend any school of instruction on the doctrines of the Communist Party? A. Periodically I attended the Workers School.

Q. What was the Workers School? A. The Workers School was a school that officially taught the doctrines of the Communist Party and also part of the strategy and organizational methods.

Q. By whom was this school conducted? A. It was conducted under the auspices of the Communist Party. Most of the teachers, to my knowledge, were members of the Communist Party. The school was situated in the headquarters of the Communist Party building. At one time it was on Union Square, 26 Union Square, I believe, and subsequently it moved down to 12th and 13th Streets in New York City.

Q. And for how long a period did you attend this Workers School? A. Well, it wasn't continuous. I took a couple of courses at the very early part of my membership and then, due to pressure of work or other inconveniences, I wouldn't take any for a year or so and then returned again. Probably altogether, I probably received about a year or

a year and a half in their curriculum instruction in various phases.

Q. What subjects were you taught at the Workers School? A. Well, the first courses that I have taken, as I remember, were the basic knowledge of Lenin's interpretation of Marxism, and coincidental with that there was the necessity for reading parts of Marx's "Das Kapital", and also the various smaller pamphlets, smaller works of Karl Marx or Friedrich Engels. Then there were instructions in relation to organization. The texts on that were Lenin on Organization, and then there were other minor booklets that were issued from time to time by either the Communist Party in the United States or that were imported from Parties outside the United States.

Q. And how were the classes conducted—I mean, what were the means used for teaching you the doctrines? A. The means were lectures. There were class rooms and the instruction was conducted by speakers who lectured on the various subjects to the students gathered there.

Q. And were any printed material used in aid of instruction? A. There were pamphlets used and then there were some mimeographed sheets compiled into small booklets used, and then periodicals of the Party. We also used to discuss some of the contents of the early magazine or publication known as "Inprecor", which dealt with the various phases of Party activity throughout the world.

Q. And as a result of your studies at the Workers School and your official position and activities within the Communist Party during the years 1926 to 1934, did you become familiar with the teachings and doctrines of the Communist Party of the United States? A. Yes. I believe I had become familiar, thoroughly familiar.

Q. And were you familiar with the literature of the Party during that period of time? A. I was.

Q. Did you receive a membership book from the Communist Party? A. Well, I received two or three of them. One I received in 1926 when I joined. It was a red folded booklet. It had only four pages. The face of it was just a printing indicating it was a membership card of the Communist Party, and the name of the individual that held that card, and then the inside pages were devoted towards the inclusion of stamps of dues that were paid periodically to the Party, and then that book was filled up and I subsequently received another one and then a third.

Q. I show you Exhibit 18 in this case and ask you if you can identify this.

(Witness examines Exhibit 18.)

A. Well, I received a similar book of this kind, I believe in the year 1931 or thereabouts. That was the last book that I held. Except for the color of the cover—mine, I believe, was somewhat gray.

Q. Will you look through the pages of printed matter in this book and tell me whether it is the same as the book that you had? A. Well, it looks identical, from what I can see.

Q. So far as you know, were the membership books issued to members identical? A. As far as I know, they were.

Q. I show you Exhibit #19 in this case, being a pamphlet known as "The Communist Manifesto", by Karl Marx and Friedrich Engles. Have you seen this before? A. Yes, I did, and I read it and it is one of the basic pamphlets of the theoretical material of the Communist Party, basic theoretical material of the Communist Party.

Q. Was this pamphlet distributed and circulated by the Communist Party? A. Continuously, during my membership.

Q. How do you know that? A. I caused some of its distribution and sale personally.

Q. Were you the only one who sold it? A. The literature agents of the various units, sections and districts were selling these and distributing them widely.

Q. I show you Exhibit 20 in this case, which is a pamphlet entitled, "State and Revolution", by V. I. Lenin. Have you ever seen this pamphlet before? A. Yes, I have. I read this pamphlet. This is also basic theoretical literature of the Communist Party and was considered as such and required reading for all members of the Communist Party.

Q. You did read this? A. Oh, yes.

Q. And what have you to say with respect to the doctrines enunciated in this pamphlet as regards the teachings of the Communist Party of the U. S. A.? A. The political orientation and political teachings of the Communist Party of the U. S. A. are based upon the teachings or, at least were, at that time when I was a member, based upon the teachings of Nicolai Lenin and all of his work, whether it was in pamphlet form or book form or published in articles, was religously read and adhered to and disseminated by the members of the Communist Party.

Q. Was this pamphlet circulated and distributed by the Communist Party of the United States? A. It was.

Q. And how do you know that? A. Because I also caused its circulation and sale, either personally or through the functions of the literature agent.

Q. I show you Exhibit 21 in this case, being a pamphlet entitled, "'Left-Wing' Communism, An Infantile Disorder", by V. I. Lenin. Have you seen this before? A. Yes, I did. I read it, and this is also part of the basic theoretical literature of the Communist Party. This pamphlet deals with the deviations that might occur within the ranks of membership or Party, and Lenin in that pamphlet has discussed that phase very thoroughly, and in it he warns against these deviations that may occur, that may destroy the harmonies of Communist Parties on a national or international scale.

Q. Was this pamphlet circulated and distributed by the Communist Party during the period of your membership? A. Yes, it was.

Q. How do you know that? A. I caused some of its sale and distribution. As a matter of fact, I have even got copies of this today in my own library and I believe many other Party members, either in or out of the Party, still have some of these pamphlets around. They are interesting literature in retrospect.

Q. I show you Exhibit 22, being a pamphlet entitled, "Foundations of Leninism", by Joseph Stalin. Have you seen this pamphlet before? A. Yes, and I read it. This became practically a Bible for the Communist Party after the year 1930. It was compulsory reading. I don't mean compulsory physically, but the agitation for the reading of this pamphlet never ceased and all Party members had to read it constantly.

Q. Does this contain the doctrines and the teachings of the Communist Party as of that time? A. Yes.

Q. And was this circulated and distributed by the Communist Party? A. In various forms. Some of these pamphlets appeared in hard cover and some and some of them appeared in excerpts and in paper cover, like that.

Q. I show you Exhibit 23 in this case, being a pamphlet entitled, "Problems of Leninism", by Joseph Stalin. Have you seen this pamphlet before? A. Yes, I did. I saw it and read it. It was part of our basic literature of the Communist Party, basic theoretical literature of the Communist Party, during my membership.

Q. Does this contain the teachings and doctrines as of that time? A. As of the time when it was issued, and continuously, until I resigned from the Communist Party.

Q. And was this circulated and distributed by the Communist Party? A. It was.

Q. During the period of your membership? A. During the latter period of my membership.

Q. I show you Exhibit 24 in this case, being a pamphlet entitled, "The Communist Party in Action", by Alex Bittelman, and ask you whether you saw this before. A. Yes, I saw this pamphlet before. This pamphlet is an elucidation upon all of the basic literature that was published for the Communist Party. It appeared during the latter part of my being in the Party and was read widely by the Communist Party members.

Q. This pamphlet, Exhibit 24, states that it was published by Workers Library Publishers, First Printing, April 1932, and this particular issue, May 1934. Does that fix in your mind the date when this was published and circulated within the Party? A. During the latter part of my membership in the Party.

Q. Was there any relationship between the Workers Library Publishers and the Communist Party? A. Yes, there was. The Workers Library Publishers, as well as the International Publishers, were the official publishers of the Communist Party literature. That is all I know of that.

Q. And did you read this pamphlet? A. Yes, I did.

Q. And does this pamphlet contain the doctrines and teachings of the Communist Party as of the time you have testified to? A. Pretty well so, very much so.

Q. I show you Exhibit 25 in this case, being a pamphlet entitled, "Why Communism", by M. J. Olgin, this pamphlet being published by the Workers Library Publishers, First Edition, December, 1933, and this particular edition, May 1935. Have you seen this pamphlet before? A. Yes, I have seen something similar. I have seen, not this exact pamphlet, something similar during my membership in the Party. Mr. Olgin, the author of this pamphlet, was a member of my unit downtown, in the last unit that I belonged to in the Party.

Q. What do you mean when you say you saw a pamphlet similar to this? A. I don't know if the cover was identical. "Why Communism", by M. J. Olgin, I have seen and read.

Q. I am not asking whether you saw this identical pamphlet in specie but I am speaking about the pamphlet,

"Why Communism". You said you saw that pamphlet? A. Yes.

Q. Are the contents of the pamphlet you read the same as this pamphlet? A. I believe so.

Q. Do you want to take a look at it and make sure? A. I would have to do more than take a look at it.

(Recess while Witness Pitcoff examines pamphlet, "Why Communism", by M. J. Olgin.)

(HEARING RESUMED.)

Examining Inspector to Witness:

Q. Mr. Witness, after having examined Exhibit 25, can you tell me whether this is the same as the edition which you had read when you were a member of the Party? A. Yes, the contents are the same. It is an elucidation upon the theories and practice of the Communist Party policies, during my period of membership anyway.

Q. And does this contain the teachings and doctrines of the Communist Party as of that time? A. Yes, it does.

Q. Was this distributed and circulated by the Communist Party? A. Yes. I saw it in the units distributed and also saw it in the Workers Bookshop, where I have seen all of the other literature.

Q. I show you a pamphlet entitled, "The Struggle Against Imperialist War and the Tasks of the Communists", a Resolution of the Sixth World Congress of the Communist International, July-August 1928, published by Workers Library Publishers, First Edition, December, 1932, this edition, July, 1934, a photostat of which is in evidence in this case as Exhibit 27. Will you please examine the original? A. Yes.

Q. Have you seen that pamphlet before? A. Yes. I saw the document which contains the adopted resolutions at the Sixth World Congress of the Communist International.

Q. Are you familiar with this particular resolution? A. Yes I read it. I read it prior to its appearance in pamphlet form.

Q. And was this resolution binding on the Communist Party of the United States during the period of your membership? A. Definitly so.

Q. And was this resolution taught by the Communist Party as its doctrine? A. Yes, it was. The decisions of

the Communist International became also the decisions of the Communist Party of the United States.

Q. And do you know whether this resolution was circulated and distributed by the Communist Party of the United States while you were a member? A. Yes, it was. Not only was it distributed in pamphlet form but I believe most of it was printed in the Daily—in the newspaper of the Communist Party at one time or another.

Q. I show you a magazine entitled, "The Communist", this being the number for July 1929 and a photostat of an article which is in evidence in this case as Exhibit 28. Can you identify this issue of the magazine? A. Yes. That was a magazine published periodically or monthly by the Communist Party and was, to my knowledge, the official organ, monthly official organ, of the Communist Party. I have seen this issue. It was published during my membership. It appeared during the time, I remember, when we had some internal struggles in the United States.

Q. And did this magazine contain the official doctrines and teachings of the Communist Party? A. As I understood it, it did, and I was told to convey it to the Party members. The articles in this magazines were invariably the official interpretations of the doctrines and theories of the Communist Party of the United States.

Q. I show you a pamphlet which is in evidence in this case as Exhibit 29, entitled, "Thesis and Resolutions for the Seventh National Convention of the Communist Party of the U. S. A., by Central Committee Plenum, March 31-April 4, 1930. The date of publication does not appear here. Have you seen this before? A. Well, I saw the pamphlet, but the Thesis and Resolutions of the Seventh National Convention I read, published in the "Daily Worker", a month or so perhaps after the Convention. Subsequently, this was published, but I read this Thesis in the "Daily Worker".

Q. And was this pamphlet circulated and distributed by the Communist Party of the United States during the period of your membership? A. Yes, it was.

Q. I show you Exhibit 5A in this case, being a pamphlet entitled, "Programme of the Communist International Together with the Statutes of the Communist International", published by Workers Library Publishers, Incorporated, First Edition, December 1, 1929. Have you seen this before? A. Yes, this one I have seen.

Q. Where? A. Communist Party headquarters, literature stands, Section literature, and the Workers Bookshop, and the district which is equivalent. The Workers Bookshop sold that and also it was sold in the Party Units and Sections of the Communist Party.

Q. In your Section? A. In my Section.

Q. You have seen this sold in your Section? A. Yes.

Q. Did you read this? A. Yes, I did.

Q. And were you familiar with its contents at the time? A. I was, and I had to quote from it very often.

Q. Was this "Programme of the Communist International" binding on the Communist Party of the United States, so far as you know, at that time? A. All the program and all the decisions of the Communist International were binding. There was no exception in this case.

Q. And was the constitution and the rules of the Communist International binding on the Communist Party during that period? A. They were. Part of the regulations or rules of the Communist International appeared on the membership books.

Q. I show you Exhibit 12 in this case, being a pamphlet entitled, "The Way Out"—A Program for American Labor, published in May 1934 by Workers Library Publishers. Have you seen this before? A. No, I didn't see the pamphlet, but the contents I am familiar with because they were the resolutions of the Eighth Convention of the Party and they appeared after the Convention in the "Daily Worker", in several editions.

Q. You say you are familiar with the contents of this although you haven't seen them in this pamphlet form? A. Yes.

Q. Were the Manifesto and Resolutions contained in this exhibit binding on the Communist Party at that time? A. Oh, yes, they were, the same as any other resolutions or manifestos of the Communist Party of the United States or the Communist International. This was as binding as the others.

Q. I show you The Communist magazine for July 1934, which is in evidence in this case as Exhibits 15 and 16, reference being had to specific articles in this magazine. Have you seen this issue of the magazine before? A. Yes, I saw this and read it.

Q. And was this issue of the magazine an official organ of the Communist Party at that time? A. It was. As far as I know, it was.

Q. And the articles appearing in this magazine, were they official doctrine of the Communist Party? A. They were considered by me to be official articles of the Communist Party and conveyed by me as such to others.

Q. And was this issue of the magazine containing these two articles, circulated and distributed and published by the Communist Party at that time? A. Oh, yes. As a matter of fact, the purchase of this magazine was compulsory for every Party member. Most members subscribed to it. Those that didn't, bought it upon publication.

Q. I show you Exhibit 10 in this case, which is the May 1934 issue of The Communist magazine. Have you seen this issue before? A. Yes, I did, and read most of the articles in that.

Q. Do you remember reading this article on page 427, entitled "The Eighth Convention of Our Party?" A. Yes, I did. I particularly remember that because at last I had some differences with the Party on the trade union position and although I did not participate as a delegate to that Convention, apparently my disagreement with the Party was taken up there by someone who shared my disagreement.

Q. But whether or not you agreed with it, did this article represent the views of the party at that time? A. Oh, yes. After its adoption by the National Convention it was compulsory. There was no discussion further on the question at all.

Q. And was this issue of the magazine, containing this article, circulated and distributed within the Communist Party? A. It was, the same as all the previous issues.

Q. Now, as a result of your official positions and your attendance at the Workers School and your readings of Party literature, are you familiar with the aims and purposes and doctrines of the Communist Party during the period of your membership? A. Yes, I am.

Q. Will you tell me briefly what was the economic objective of the Communist Party during the period of your membership?

By Counsel, Mr. Englander: I object to his statement on the ground that I don't believe that this witness has been qualified as an expert in Marxist-Leninist theory.

By Presiding Inspector: I will allow the answer and give it its due weight.

By Mr. Englander: Exception.

A. (By Witness) It was the contention of the Communist Party that there exists a never ending struggle between what they contend to be the master class, the capitalist class, and the proletariat, which is called the oppressed class, and that this struggle would culminate in a civil war between the two opposing classes, and the only way to bring it about to the benefit of the oppressed class is by the organization of the Communist Party which is considered to be the vanguard of this oppressed class, which vanguard would utilize all of the daily struggles of the oppressed class, teaching them to use those struggles—and for their political and military education—so that when the exploiting class or its government has become confused or disorganized due to all of these attempts by the oppressed class to hamper its industrial, economic and political tranquillity or activity, then the Communist Party would lead these oppressed masses into revolt against the government of the so-called oppressed class.

(Recess.)

(Hearing Resumed.)

By Presiding Inspector: Proceed.

Examining Inspector to Witness:

Q. Did the Communist Party merely predict that this revolution would occur?

By Counsel, Mr. Englander: I object to it as being leading.

By Presiding Inspector: I will allow it.

A. (By Witness) No. Although the Communist Party predicted that the revolution will occur, it said the actual revolution will not take place unless the working class is organized to stimulate that revolution, to use whatever power it has, economic and otherwise, in order to complete the revolution, to make the revolution.

Examining Inspector to Witness:

Q. Now, was it contemplated that the revolution would take place by peaceful means? A. Definitely not. In one

of the basic tenets of the Communist Party in its literature was, that there cannot be any peaceful attaining of the proletarian revolution. They explained it by virtue of the fact that the capitalist class would not give up its power peacefully, that the only way that the so-called oppressed class will inherit power is by actually taking, and taking it by force through the organization of the Communist Party.

Q. And when you use the term "force", are you referring to that in a rhetorical sense or in a physical sense?

By Counsel, Mr. Englander: I think that the question is leading.

By Presiding Inspector: On that question I will sustain.

Examining Inspector to Witness:

Q. What is meant by the term "force", as used by the Communist Party? A. By the term "force" is meant the organization of the advance guard of the proletariat into combatant units that would arm themselves and be ready to challenge the authority of the Army, the police, or any of the State apparatus, that is intended for the protection of the State of the so-called oppressor class, meaning, capitalist class.

Presiding Inspector to Witness:

Q. By that you mean actual physical force? A. Yes.

By Counsel, Mr. Englander: I object to that as being leading.

By Presiding Inspector: Overruled.

By Examining Inspector: No further questions.

Presiding Inspector to Counsel:

Q. Do you want to go ahead with cross examination? A. (By Mr. Englander) Yes.

Cross examination of Witness, Robert Pitcoff:

Mr. Englander to Witness, Robert Pitcoff:

Q. When you were Unit Organizer of Unit 5, Section 5, was that a paid position by the Communist Party? A. No, it was not.

Q. Were you employed during the day during that time? A. Of course I was.

Q. And you devoted only your spare time to that work? A. Yes, that's right.

Q. And you found time to read all of the literature which was distributed and published by the Communist Party at that time? A. I certainly did.

Q. In addition to your duties as Unit Organizer? A. That's right.

Q. Now, when you were Fraction Secretary of the Building Trades, specifically what division of the building trades are you connected with? A. I would rather not state that, for reasons that I do not want to be interfered with in my profession which I pursue now.

Presiding Inspector to Witness: Please answer the question.

By Witness: All right. In the Electrical Fraction.

Mr. Englander to Witness:

Q. Of the Building Trades? A. Yes.

Q. Now, when you were Fraction Secretary, were you a paid functionary? A. Of the Party, no, not at that time.

Q. I am referring now to when you were Fraction Secretary? A. No, I was not a paid functionary.

Q. You did that in your spare time? A. That's right.

Q. And in addition to your duties as Fraction Secretary you found time to read all these pamphlets? A. Yes.

Q. Were you married at that time? A. Yes.

Q. Did you have children at that time? A. Around 1928 my first child was born.

Q. So I presume that you had time to devote yourself to your employment, to your duties as Fraction Secretary of the Building Trades, to read the literature, and duties to your family. Is that right? A. I fulfilled my duties, unfortunately to the expense of the attention necessary to my family.

Q. Now, when you were Section Organizer of Section 5, were you a paid functionary? A. No.

Q. You went to school—is that right? A. Yes, periodically I went to school.

Q. Was the Workers School the only school you attended? A. As far as the political education, yes. No, I attended for a short period of time the Rand School, previ-

ous to my membership in the Communist Party. That was the only political school I attended.

Q. Then you were National Secretary of the Building Trades Fraction; that was from 1929 to 1931? A. Approximately.

Q. Were you a paid official of the Communist Party at that time? A. No, I was not.

Q. And then you became District Secretary of the Building Trades Fraction from 1932 until the end of your affiliation, until 1934, and were you paid for that? A. Nominally it was, because it was a full time job that I was compelled to take for the Party, but I never got paid. I had to live on my savings.

Q. Now, were these official positions which you held nonpaying positions—were they considered important positions in the Communist Party? A. As far as I was told, they were considered important.

Q. And in your opinion, were you considered an important official in the Communist Party? A. Well, to the extent that I carried out my duties and worked, which was part of Party work, it was considered that. It was told to me on several occasions by high Party functionaries when I attempted to shed some of those responsibilities.

Q. And were you sent by the Communist Party to the so-called secret schools? A. No, I was not.

Q. You were working in a basic industry, were you not, sir? A. Well, it was basic, yes.

Q. You were expelled from the Communist Party, were you not? A. No, sir, I resigned.

Q. When did you resign? A. During the month of, I believe, September or October, 1934.

Q. Did you ever see the December 15, 1934 edition of the "Daily Worker"? A. Yes, I probably did.

Q. And did you see the article on Page 2 which says, Joseph Zack, Jack Taylor and Robert Strong Expelled from the Communist Party? A. I saw it.

By Mr. Englander: At this time I offer in evidence this article and ask that we be permitted in the very near future to submit photostatic copies of this article.

(Examining Inspector reads article.)

By Examining Inspector: I object to the introduction of this newspaper article in evidence because it has not been proved.

I am willing to withdraw my objection and have this introduced in evidence merely as proving that this item was published in the "Daily Worker" on the date alleged, and for nothing more. I say that it is irrelevant.

By Presiding Inspector: I will allow it, subject to connection.

The photostatic copy, when submitted, of this article appearing in the December 15, 1934 edition of the "Daily Worker", will be marked in evidence as Exhibit 33.

By Mr. Englander: No further questions.

Examining Inspector to Witness:

Q. Mr. Pitcoff, did you read this article at the time it was published? A. I did.

Q. Are you the Robert Strong who is referred to in this article? A. I believe I am.

Q. Did this article tell the truth about you? A. Not a word.

(Recess.)

(Hearing Resumed.)

Examining Inspector to Witness:

Q. Now, when did you resign from the Communist Party? A. It was either in September or October, 1934.

Q. How did you resign? A. I resigned at a meeeting of the building trades workers, which I had called for that purpose as Secretary of the Building Trades Section of the T. U. U. L. I read my resignation; I divulged my membership in the Party to the members there. I wrote a prepared resignation, the original of which I had sent to headquarters of the Communist Party. Subsequently, an item or two appeared on my resignation in the New York press—I don't remember which—but I probably could dig that up.

Q. After you resigned in September or October of 1934, did you have any connection whatsoever with the Communist Party of the United States? A. None whatever. They attempted to call me back. They made several efforts through the Control Commission and through the organizers of the T. U. U. L., to get me back. When I flatly refused to go back to the Communist Party, that was the result (pointing to article in newspaper).

Q. Now, when the "Daily Worker" on December 15, 1934 published a statement that you had been expelled from the Communist Party, was it telling the truth? A. No, it was not. I resigned. I insisted upon that here and anywhere else. There is proof to that statement.

Q. And do you know anything about the policy of the Communist Party with respect to permitting members to resign? A. The Communist Party does not permit members to resign because once a Party member resigns he becomes potentially an enemy of the Communist Party and as an enemy he is treated and vilified, so that it will intimidate all other prospective resignees from following his course.

Q. And what do they do with a person who has resigned? A. They vilify and expel them.

Mr. Englander to Witness:

Q. You knew about this article? A. I saw it.

Q. And you knew that I would have it today—you expected it? A. I anticipated it.

Q. Did you bring down the proof which you said you have, you can get, that you resigned prior to this expulsion? A. No. I could gather that evidence any time when it is necessary to prove it.

Q. And this is the first time you are testifying in proceedings of this type? A. It is.

Q. When did you know that you were coming down here to testify? A. Last week.

Q. And did you make any attempt to obtain this proof? A. No.

Q. Although you expected that this was going to be produced? A. I did not expect it at that time. I expected there would be cross-examination, but sitting here I saw somebody bring in a "Daily Worker" and I anticipated it might refer to me.

Q. You were associated with Mr. Zack in the Building Trades Union, were you not? A. Mr. Zack was a Party comrade of mine and also, subsequently, a friend. He had something to do with the Building Trades Fraction but he was not a member of the Building Trades Fraction.

Q. Have you an agreement with the Government to get paid for your testimony? A. Yes, I understand I am to get paid.

By Examining Inspector: That is the Government's case.

(Witness, Robert Pitcoff, excused.)

Presiding Inspector to Counsel: Do you have any evidence that you desire to present at this time?

By Counsel, Mrs. King: Not at this time, Mr. Presiding Inspector, but I should like a reasonable adjournment until March 9th, if possible, so that I may produce William Schneiderman as a witness for the respondent in this case.

Presiding Inspector to Mrs. King: Will you state why he has not been produced as a witness today?

By Mrs. King: Mr. William Schneiderman is an official of the Communist Party in California and he found it impossible to come at this time. I have a telegram, if you would like to see it, from Mr. Schneiderman, saying it was impossible, and subsequent to that, through an intermediary, I received a telephone message yesterday that the earliest date which he could be in New York would be March 8th, and I should like an opportunity to speak with him before he takes the stand on March 9th.

Presiding Inspector to Mrs. King: The Examining Inspector, who is not resident in New York City, has indicated that he believes that he can make such a date on March 9th. Accordingly, the hearing is adjourned tentatively to that date. In the event that you are unable, for proper cause, to continue on that date, you are instructed to give sufficient advance notice, so that the Examining Inspector will not come in vain.

By Counsel, Mrs. King: Thank you.

By Presiding Inspector: Hearing is adjourned to that date of March 9, 1948, at 10:00 A. M.

HEARING ADJOURNED

(Respondent's release on own recognizance continued.)

R 2/19/48
T 3/10/48

I CERTIFY the foregoing to be a true and correct transcript of my shorthand notes of the testimony taken by me in the above case.

VIVIAN H. GARNETT
Stenographer

Record of Reopened Hearing, March 9, 1948

UNITED STATES OF AMERICA,

DEPARTMENT OF JUSTICE,
IMMIGRATION AND NATURALIZATION SERVICE.

[SAME TITLE]

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70 Columbus Avenue,
New York City, N. Y.
March 9, 1948,
1:30 o'clock, p.m.

Met pursuant to adjournment

Before:

HON. GILBERT ZIMMERMAN,
Presiding Inspector.

Reported By:

HENRY WEINER, Accurate Reporting Co., 154 Nassau Street, New York City.

Appearances:

MAURICE A. ROBERTS, Examining Inspector, for the Department of Justice, Immigration and Naturalization Service.

MRS. CAROL KING and ISIDORE ENGLANDER, Counsel, for the Respondent.

Inspector Zimmerman: Are you ready to proceed with the hearing at this time?

Mr. Roberts: I am.

Inspector Zimmerman: Are you ready to proceed with the hearing at this time?

Mrs. King: We are.

Inspector Zimmerman: Respondent is present by your side; is that correct?

Mrs. King: That is correct.

Inspector Zimmerman: Proceed.

Mrs. King: I call Mr. William Schneiderman.

WILLIAM SCHNEIDERMAN, called as a witness in behalf of the Respondent, having been duly sworn, was examined and testified as follows:

Inspector Zimmerman: You are informed that if you knowingly or wilfully give false testimony or tell lies in this proceeding you may be prosecuted for perjury, the penalty for which, upon conviction, is imprisonment for not more than five years and a fine of not more than $2,000. Do you understand that?

The Witness: I understand that.

Inspector Zimmerman: What is your full, true and correct name?

The Witness: William Schneiderman.

Inspector Zimmerman: What is your present residence address?

The Witness: 415 Collingwood St., San Francisco, California.

Inspector Zimmerman: Counsel, you may proceed with the examination.

Direct examination by Mrs. King:

Q. Mr. Schneiderman, are you a citizen of the United States? A. Yes.

Q. When and where were you naturalized? A. In 1927 in Los Angeles, California.

Q. When did you originally come to the United States? A. 1907 or 1908.

Q. How old were you at that time? A. About two and a half years old.

Q. And how old were you when you became a citizen? A. Twenty-one.

Q. You became a citizen then as early as you could become one? A. Yes, I applied at the age of eighteen.

Q. An attempt was made to cancel your citizenship, was it not, Mr. Schneiderman? A. Yes.

Q. What came of that? A. The case in which it was tried ruled that it was cancelled but the case was appealed and finally reversed in the United States Supreme Court in which case the Supreme Court upheld my right to citizenship. That was in June 1943.

Q. When did you join the Communist Party? A. In 1924.

Q. So that you were a member of the Communit Party at the time that you were naturalized? A. Yes.

Q. Since you became a member of the Communist Party what positions in that organization have you held? A. I have held the position of state secretary in California, in Connecticut, in Minnesota; at present I am the state chairman of the Communist Party in California and I have been a member of the National Committee of the Party since about 1930.

Q. Have you ever been nominated by the Communist Party to public office? A. Yes. I was the Communist candidate for Governor of Minnesota in 1932.

Q. Was it because of your Party membership that proceedings were instituted to cancel your citizenship?

Mr. Roberts: I object to that question as calling for a conclusion on the part of the witness.

Inspector Zimmerman: Objection overruled.

The Witness: Yes, the essence of the charge was that my membership in the Communist Party precluded my right to citizenship.

By Mrs. King:

Q. Could you outline very briefly what experiences you had in this country before you became a citizen? You said that you came here at the age of two. What did you do from two to eighteen?

Mr. Roberts: I object. I think that what this witness did from the ages of two to eighteen is completely irrelevant to the issues before the Presiding Inspector and in the interest of saving time, I suggest that we eliminate unnecessary items.

Inspector Zimmerman: Objection sustained.

By Mrs. King:

Q. Have you continued as a member of the Communist Party from its inception to the present time? A. Yes.

Inspector Zimmerman: Off the record.

(Discussion off the record.)

Inspector Zimmerman: On the record.

By Mrs. King:

Q. Under what names did that organization function from the time that you became a member? A. Originally the Workers Party, then it was changed to the Workers Communist Party, I believe, about 1927, and finally to the present name, the Communist Party of the United States.

Q. Have you at any time taught the doctrines of the Communist Party of the United States? A. Yes, I have.

Q. In what connection was that? A. As a Party officer I had as one of my duties to explain the principles and policies of the Communist Party both to the members of the Party as well as to large numbers of people who were not members to whom I spoke in public meetings, lectures, classes and so on.

Q. Where were those classes conducted? A. You mean in the cities, the states?

Q. No, under what auspices, what kind of a school did you teach classes in? A. Under various auspices, sometimes under the auspices of the Communist Party and at other times I was invited to speak on the views of the Party, in one case at the University of California and another case at Mills College.

I once debated one of the faculty members of the University of California, Major General Barrows, on the question of force and violence before an audience at Mills College; and there are many other such examples that I can't recall at the moment.

But these lectures or talks were under whatever auspices happened to come up at the time. They weren't always under the auspices of the Communist Party.

Q. But the subject of the lecture was what in each instance? A. In each instance it was explaining both the immediate aims as well as the ultimate aims of the Communist Party.

Q. Are you fairly familiar with the literature that has been issued by the Communist Party since you joined that organization? A. Yes, I am.

Q. What publications of the Communist Party are recognized by that organization as official? A. You mean documents?

Q. Yes. A. The Communist Party recognizes as official its convention statements, resolutions of a convention or

some authorized statement of the National Committee or the National Board of the Party issued through one of its officers.

Q. Have you seen the 1947 edition of the Constitution of the Communist Party of the United States of America issued February 1947? A. Yes.

Q. Is that an official document of the Communist Party? A. Yes, it is.

Q. What relation has that Constitution got to the earlier Constitution of 1938 and 1945 which are Exhibits 4 and 14 in this proceeding? A. This is an amended version of the 1938 Constitution. Basically it is the same document but amended and brought up to date in 1945.

Inspector Zimmerman: Do you mean 1947?

The Witness: Well, this was printed in 1947 but it was adopted at the 1945 convention of the Communist Party.

By Mrs. King:

Q. May I ask you whether this document, pointing to Exhibit 14, is the same document as the 1947 edition? A. It appears to be except that it was printed by the state organization in New York and has some of the state by-laws of the New York State organization.

Mrs. King: I offer in evidence the Constitution of the Communist Party of the United States published by the Communist Party of the U. S. A., national office, February 1947.

Mr. Roberts: I have no objection.

Inspector Zimmerman: This Constitution of the Communist Party, shown to have been printed February 1947, is marked in evidence as Exhibit 34.

(Whereupon, the document referred to was marked for identification and received in evidence as Exhibit 34.)

Inspector Zimmerman: Proceed.

By Mrs. King:

Q. Mr. Schneiderman, what relation have the doctrines published in the Constitution of the Communist Party got

to the doctrines of the organization prior to the publication of its Constitution? A. The Constitution of the Communist Party which was first adopted in 1938 is a codification of the program and principles of the Party and is the only official recognized exposition of the Party's views. It is the supreme authority of the Party on all questions of principle, theory, policy and so on, and supersedes any other document.

Q. Did it introduce a new principle in the Party doctrine at the time of its adoption? A. No, it did not, but it represented the collective thought after a prolonged discussion in the Party over a period of years as to what should be the official position of the Party on the questions contained therein.

Q. And is that true of the later Constitutions as well as of the 1938 Constitution? A. Yes, basically the same.

Q. Are you familiar with this election platform of struggle for the urgent needs of toilers, election platform of the Communist Party, New York State, 1934? A. No, not with this one.

Inspector Zimmerman: The answer is what?

The Witness: Not with this one.

By Mrs. King:

Q. Are you familiar with this pamphlet entitled Democracy or Fascism, Earl Browder's report to the 9th convention of the Communist Party issued by Workers Library Publishers, 1936? A. Yes, I am.

Q. Does that report express the views of the organization? A. Yes, this was an official report of the Party's National Committee to a convention and represents the official position of the Party since it was adopted by the convention.

Mrs. King: I offer it in evidence.

Mr. Roberts: No objection.

Inspector Zimmerman: This pamphlet entitled Democracy or Fascism, shown to have been published in 1936, is marked in evidence as Exhibit 35.

(Whereupon, the pamphlet referred to was marked for identification and received in evidence as Exhibit 35.)

Inspector Zimmerman: Proceed.

By Mrs. King:

Q. Mr. Schneiderman, are you familiar with the Communist Election Platform of 1936? A. Yes, I am.

Q. Does that Platform set forth the official views recognized and accepted by the Communist Party? A. Yes.

Mrs. King: I offer it in evidence.

Mr. Roberts: No objection.

Inspector Zimmerman: This pamphlet entitled The Communist Election Platform, 1936, is marked in evidence as Exhibit 36.

(Whereupon, the pamphlet referred to was marked for identification and received in evidence as Exhibit 36.)

Inspector Zimmerman: Proceed.

By Mrs. King:

Q. Mr. Schneiderman, are you familiar with the Communists in the People's Front delivered to the plenary meeting of the Central Committee of the Communist Party U. S. A., held June 17 to 20, 1937? A. Yes, I am.

Q. Does that report reflect the position of the Communist Party and its views? A. It does.

Q. Was it accepted and adopted by the Communist Party? A. Yes, it was.

Mrs. King: I offer it in evidence.

Mr. Roberts: No objection.

Inspector Zimmerman: This pamphlet entitled The Communists in the People's Front, shown to have been published July 1937, is marked in evidence as Exhibit 37.

(Whereupon, the pamphlet referred to was marked for identification and received in evidence as Exhibit 37.)

Inspector Zimmerman: Proceed.

By Mrs. King:

Q. Mr. Schneiderman, are you familiar with the Communist Election Platform of 1932 which I now show you? A. Yes.

Q. Are the views therein expressed the accepted views of the Communist Party and its official views? A. Yes.

Mrs. King: I offer it in evidence.

Mr. Roberts: No objection.

Inspector Zimmerman: This pamphlet entitled Communist Election Platform, adopted May 28, 29, 1932, is marked in evidence as Exhibit 38.

(Whereupon, the pamphlet referred to was marked for identification and received in evidence as Exhibit 38.)

Inspector Zimmerman: Proceed.

By Mrs. King:

Q. Mr. Schneiderman, are you familiar with this pamphlet, The Democratic Front, which is a report of the general secretary of the Communist Party to the 10th National Convention of the Communist Party delivered Saturday, May 28, 1938? A. Yes, I am. This is it.

Q. Does the pamphlet express the views of the Communist Party? A. It does.

Q. Was that report adopted and accepted by the Communist Party at its National Convention? A. It was.

Mrs. King: I offer it in evidence.

Mr. Roberts: No objection.

Inspector Zimmerman: This pamphlet entitled The Democratic Front by Earl Browder, report delivered May 28, 1938, is marked in evidence as Exhibit 39.

(Whereupon, the pamphlet referred to was marked for identification and received in evidence as Exhibit 39.)

By Mrs. King:

Q. Mr. Schneiderman, are you familiar with the Communist Election Platform of 1938? A. Yes, I am.

Q. Does that Platform express the considered views of the Communist Party and its official position on the matters therein considered? A. It does.

Mrs. King: I offer it in evidence.

Mr. Roberts: No objection.

Inspector Zimmerman: This pamphlet entitled Communist Election Platform, 1938, is marked in evidence as Exhibit 40.

(Whereupon, the pamphlet referred to was marked for identification and received in evidence as Exhibit 40.)

By Mrs. King:

Q. Have you examined and studied the Resolutions of the 9th Convention of the Communist Party of the U. S. A., published in 1936 by the Workers Library Publishers and can you identify that pamphlet? A. Yes, I am familiar with it. This is it.

Q. Do those resolutions express the considered views and accepted principles of the Communist Party passed upon at that convention? A. They do.

Mrs. King: I offer it in evidence.

Mr. Roberts: No objection.

Inspector Zimmerman: This pamphlet entitled Resolutions of the 9th Convention of the Communist Party, published in 1936, is marked in evidence as Exhibit 41.

(Whereupon, the pamphlet referred to was marked for identification and received in evidence as Exhibit 41.)

By Mrs. King:

Q. Mr. Schneiderman, are you familiar with the Resolutions of the 10th Convention of the Communist Party adopted at the National Convention held in New York, May 27 to 31, 1938? A. Yes, I am.

Q. Does that pamphlet contain those resolutions? A. Yes.

Q. And did those resolutions represent the considered views of the membership of the Communist Party and its official position on the matters therein considered? A. Yes.

Mrs. King: I offer it in evidence.

Mr. Roberts: No objection.

Inspector Zimmerman: This pamphlet entitled Resolutions of the 10th Convention of the Communist Party, published July 1938, is marked in evidence as Exhibit 42.

(Whereupon, the pamphlet referred to was marked for identification and received in evidence as Exhibit 42.).

By Mrs. King:

Q. Mr. Schneiderman, are you familiar with the Election Platform of the Communist Party, 1940, which I now show you? A. Yes, I am.

Q. Does that Platform represent the considered views and official position of the Communist Party with reference to the matters therein taken up? A. Yes.

Mrs. King: I offer it in evidence.

Mr. Roberts: No objection.

Inspector Zimmerman: This pamphlet entitled Election Platform of the Communist Party, 1940, is marked in evidence as Exhibit 43.

(Whereupon, the pamphlet referred to was marked for identification and received in evidence as Exhibit 43.)

By Mrs. King:

Q. Mr. Schneiderman, do you remember having read a telegram sent on March 15, 1938 by the general secretary of the Communist Party to the chairman of the New York Senate Judiciary Committee in Albany which I now show you?

Mr. Roberts: May I suggest that the record indicate that it is not a telegram that you are showing to the witness but a magazine.

Mrs. King: Which was re-published in The Communist of April 1938.

The Witness: Yes, I am familiar with it.

By Mrs. King:

Q. Did you see it before it was published in The Communist? A. No, I read about it in the press at the time.

Q. Have you read the full telegram since it was sent? A. Yes.

Q. Were the views therein expressed the official views of the Communist Party? A. Yes, they were.

Mrs. King: I offer so much of The Communist of April 1938 as embodies the telegram of March 15, 1938.

Mr. Roberts: No objection.

Inspector Zimmerman: This telegram appearing on pages 319 and 320 of the April 1938 issue of The Communist signed by Earl Browder is marked in evidence as Exhibit 44.

(Whereupon, the telegram referred to was marked for identification and received in evidence as Exhibit 44.)

By Mrs. King:

Q. Mr. Schneiderman, is everything contained in The Communist, the magazine, the official views of the Communist Party? A. Not necessarily, no.

Q. What would you say was official in the magazine, The Communist, and what would you say was not official, if you can tell us that? A. Yes. Those statements which either are convention documents, resolutions or authorized by a convention of the Party would be considered as official. All the other material in The Communist are interpretations of Party policy by individuals and mainly for the purposes of discussion and further investigation of the subject.

Q. Before the publication of the articles in The Communist, does the National Committee or any of the officers of the organization have to accept those articles as proper for publication or is that in the hands of the editors of the magazine? A. That is within the jurisdiction of the editors.

Q. Mr. Schneiderman, do you know whether the Communist Party of the U. S. A. believes in or advocates the overthrow of the Government of the United States by force and violence or formerly believed in or formerly advocated the overthrow of the Government of the United States by force and violence? A. I would like to make a rather extended statement in answer to that question in order to explain both my own views as well as the views of the Communist Party as I interpret them. I want to first of all

reject with all the indignation at my command these charges that the Communist Party of the United States advocates the overthrow of the American Government by force and violence.

This accusation is a falsehood and it is based on a program of political persecution against a political party which has the same rights to express its views as any other political party in this country.

Mr. Roberts: I object to this answer and ask that it be stricken as unresponsive.

Inspector Zimmerman: Off the record.

(Discussion off the record.)

Inspector Zimmerman: On the record. I will allow the answer as far as it has proceeded, and since the question has been sufficiently answered, counsel will put another question to the witness.

By Mrs. King:

Q. What is the position of the Communist Party, U. S. A., with reference to the use of force and violence? A. If I will be permitted to state the views of the Communist Party, I cannot answer the question in just one word, yes or no.

The Communist Party rejects the advocacy or use of force and violence and specifically repudiates the charge that it advocates the overthrow of the Government by force and violence. It is our contention that there are advocates of force and violence but the Communist Party is not the guilty party.

If the Government wishes to seek the advocates of violence in this country they can find them by looking to those people that advocate white supremacy in the South.

Inspector Zimmerman: That is enough of the answer. Counsel will put another question, please.

The Witness: I am not through with my statement.

Inspector Zimmerman: I appreciate that. Please try to answer a question responsively and then cease your answer.

It is not proper in answering a question to make a speech in this proceeding.

The Witness: Mr. Inspector, I was in a trial before.

Inspector Zimmerman: Off the record.

(Discussion off the record.)

Inspector Zimmerman: On the record.

By Mrs. King:

Q. Mr. Schneiderman, who in this country, in your opinion and in the opinion of the Communist Party, are the advocates of force and violence? A. I would say the people that are violating the Constitution today by preventing the use of the ballot in the South, by such forces as are preventing, in Georgia, Negroes from voting at the primaries as they did the other day when the Ku Klux Klan paraded on election day and the Government did nothing about it to prevent the violation of those constitutional rights.

And I would say those forces that are advocating an atomic war today are the real advocates of force and violence. I would say that those people that are still organizing private police and armed guards to use against the labor movement in strikes, these are the advocates of force and violence; and I reject the charge that the Communist Party or any legitimate working-class organization uses force and violence except in self-defense when it is used against them in violation of the Constitution.

Q. You have just expressed your views as to the advocacy of force and violence by the Communist Party at the present time. Do these views apply to the past doctrines and philosophies of the Communist Party as well as its present doctrines and philosophy? A. Yes. Ever since I have been a member of the Communist Party I have always understood the views of the Party as being fully in harmony with all the principles of democracy. I have always understood them so.

I have been taught so in the Communist Party; I have helped to teach those principles to other people both in the Party and outside the Party. I have always taught the principle and fought for the principle that the institutions of American democracy should be defended and improved, and a new and higher form of democracy introduced into the United States once we win the people to understand the need for that.

That is the system of Socialism. That is the way I have always understood the views of the Communist Party and the principles of Marxism.

Q. Do you know whether the Communist International before its dissolution advocated force and violence or the use of force and violence to effect social changes? A. In order to answer that question, if I may be permitted, I would like to say a few words about what Marxist science says on this question and how it views the social forces in history. Obviously, this cannot be answered with a yes or no since it involves a world philosophy and a view of history and an analysis of the social forces at work.

We Marxists have always viewed the history of mankind as a history of struggle and conflict between opposing classes and since the earliest days of society we have seen that social systems have come and gone; that when they have outlived their usefulness they have given way to a new and higher form of social system as in the case when slavery gave way to feudalism and when feudalism gave way to capitalism.

In each case a new and rising class became the dominant class and the old dominant class was eliminated. There was a period when capitalism was a revolutionary social system; when it overthrew in many countries the fetters of feudalism and advanced mankind both in an economic way and in the form of political democracy.

Today we see a new social system arising which is the product of these historical forces that have operated all through the history of mankind and that is the system of Socialism which in our opinion is a higher form of democracy, a higher form of social order than capitalism is because it aims to eliminate the contradictions of capitalism.

It aims to eliminate the effects of capitalism in the form of exploitation, oppression, national oppression, wars, unemployment, economic crises and so on. So that our analysis of any political situation takes into account whether forces are at work to bring about such changes.

History has taught us that that is the way all changes come about. History has taught us that capitalism was not in existence all the time and we do not believe it will remain in existence all the time any more than slavery or feudalism did.

We see it in the process of change and where in one or more countries already capitalism has been replaced by what we consider a superior social order, a superior form of economy, and a superior form of democracy and that is under Socialism.

Now the program of the Communist International at any particular time attempts to apply this world view to the relation of forces to the political situation at a particular time. Its statements refer to the particular situation at a particular time in some country or other.

Its application, the application of that analysis, may vary from one country to another. It happens that Marxists believe as a fundamental principle that even this working of historical forces will work out differently in different countries depending on the history of that country, depending on its economy, the stage of its economy, depending on the character of its people, depending on the traditions of its people, and depending also, on the political forms existent in that country.

And so we have always taken the view that any world analysis of a world situation may or may not specifically apply to the conditions in the United States, particularly in view of the fact that in most cases this analysis specifically arose out of some situation in Europe either in Russia or in Germany or China or some such country.

We believe that the views of the Communist International, while they apply on a world scale, may not specifically apply in its concrete application to the particular situation in the United States; and the reason for this is that obviously we are not living under Fascism as yet, although there are many pro-Fascist forces that are moving in that direction in this country.

We aren't living under czarism. There are many democratic forms and expressions still open to the people, ways of them expressing their grievances and fighting for a better life and so any interpretation of the documents of the Communist International must be understood in the light that they may or may not apply specifically or concretely to the United States.

That is the way we have always understood them and that does not contradict our agreement with the general principles and the approach contained in those documents, although there are times when we will disagree with not

only its specific application but even in the way it formulates an analysis of a certain situation.

This, I think, is a necessary background.

Inspector Zimmerman: Just a minute. Your answer has been not entirely responsive to the question. The question asked was whether you knew whether the Communist International advocated the use of force and violence.

Your answer has been with reference to what the Marxists hold. Would you try to answer the question responsively?

The Witness: I was coming to that point and I believe I will show that the background I have laid is absolutely necessary.

By Mrs. King:

Q. Before you go further, Mr. Schneiderman, you have been using the word "we" as you talked. Am I correct that you mean by "we" members of the Communist Party of the U. S. A.? A. Yes. The point I was trying to make was that in a country that is under Fascist rule we would and did advocate as in Germany the use of force and violence.

Inspector Zimmerman: Mr. Schneiderman, please answer the question which is: do you know whether the Communist International before its dissolution advocated force and violence or the use of force and violence to effect social changes?

Mrs. King: Mr. Presiding Inspector, may I reformulate the question along the same line to say—

Inspector Zimmerman (Interposing): May I have the answer of the Respondent to the question?

The Witness: The Communist International during its life did not advocate the use of force and violence where democratic means and expressions were open to the people.

By Mrs. King:

Q. That brings me to my revision of the question and I would like to ask whether the Communist International advocated the use of force and violence to overthrow the Government of the United States? A. No, it never did.

Inspector Zimmerman: Off the record.

(Discussion off the record.)

Inspector Zimmerman: You may proceed, Mrs. King.

Mr. Roberts: Mr. Presiding Inspector, I may say this that as examining inspector I have not interjected ever though the witness has recited at length because there is a time element involved.

Inspector Zimmerman: Off the record.

(Discussion off the record.)

Inspector Zimmerman: On the record.

By Mrs. King:

Q. Mr. Schneiderman, there have been a number of witnesses in this case, former members of the Communist Party, who said that from their knowledge of its doctrines and methods of operation that they believe that the Party did advocate the overthrow of the Government of the United States by force and violence.

Can you explain how the doctrines of the Party could be subject to such misunderstanding? A. Yes. These professional witnesses—

Mr. Roberts (Interposing): I object to that statement as being predicated on a state of facts not in the record.

Inspector Zimmerman: Objection sustained.

The Witness: Well, I would say that their statements are the product of either their fevered imagination or some more sinister purpose and I don't know what it is.

Mr. Roberts: I object to that and move to strike it out as being a conclusion of the witness.

Inspector Zimmerman: I sustain the objection but will allow the answer to stand in the record and give it its due weight if it has any such weight.

The Witness: I would like to add—

Inspector Zimmerman (Interposing): Just a moment, there is no question that needs to be answered right now.

Mrs. King: May we have a five-minute recess at this time?

Inspector Zimmerman: Yes.

(A short recess was taken.)

Inspector Zimmerman: Proceed.

By Mrs. King:

Q. Mr. Schneiderman, have you read the testimony of Peter Harisiades, the Respondent, in these proceedings? A. Yes, I have.

Q. Do you generally agree with the statement of the Communist position that the Respondent expresses in his testimony? A. Yes, I believe he has given a generally correct interpretation of the principles of the Communist Party.

Q. Have you read the testimony of the Government witness, George Hewitt, in so far as the transcript was given to you when you reached New York? A. Yes.

Q. Do the views expressed by Mr. Hewitt in his testimony express the views of the Communist Party of the U. S. A. as you understand them? A. No, I never heard such views taught in the Communist Party and I don't believe he did either.

Mr. Roberts: I move to strike the last part of that answer as being based on the witness' belief.

Inspector Zimmerman: I will allow it and give it whatever weight it deserves.

By Mrs. King:

Q. Mr. Schneiderman, did you ever see any Communists or alleged Communists drilling with guns and uniforms in the United States? A. No, that is the worst nonsense I have ever heard.

Q. Mr. Schneiderman, in your opinion how would the transition from capitalism to Communism take place in the United States? A. Well, I have no specific blueprint but as we Marxists always do, we can draw some lessons from history. Our views are that in each country historical and social change takes place in accordance with the specific conditions in that country; and it is interesting to note that in Russia the transition of Socialism took place in one form whereas in some of the countries of Eastern Europe today they are taking place in a somewhat different form.

In fact, what we are witnessing in many of these Eastern European countries is a peaceful transition to Socialism where a majority that makes up the government in these countries is introducing measures which constitute measures in the direction of eventual full Socialism.

This indicates, I believe, that any attempt to read into a world doctrine a specific application to the United States is, of course, foolish and the best proof is that in each country social change including the transition to Socialism takes place in a different way.

The point I want to make is that it happens that the historical circumstances in these Eastern European countries is such that the transitions to Socialism can and are taking place in a peaceful manner.

If force and violence will be used, it will only be by those forces that are attempting to prevent the majority of the people that constitute the government there from instituting these changes through peaceful and democratic means.

Q. I am going to bring you back to my original question. By what means do you think the transition will occur in the United States? A. I would say that the transition could take place in a peaceful manner if democracy prevails and the expression of the will of the people is allowed to be heard; that the only exception to that would be if we really lived under a Fascist dictatorship in this country.

Mrs. King: Mr. Presiding Inspector, I am through with the witness at this time. Probably tomorrow I will want to introduce some testimony from the hearing in the Schneiderman case which I do not have available because of circumstances that were not within our control today; but at this point I am ready to turn over the witness to the Government for cross examination.

Inspector Zimmerman: Counsel, that will be agreeable. You may resume direct tomorrow.

Mr. Examining Inspector, you may, if you desire, proceed with cross examination.

Mr. Roberts: May we have a short recess at this time?

Inspector Zimmerman: Yes.

(A short recess was taken.)

Inspector Zimmerman: Proceed.

Cross examination by Mr. Roberts:

Q. Mr. Schneiderman, have you ever used or been known by any other name or names? A. Yes. My original name before I obtained citizenship was Velvel Schneiderman. It was changed to William at the time I became a citizen.

Q. Apart from another first name, have you ever used another surname? A. No, I haven't.

Q. Never at any time? A. Never at any time.

Q. Have you ever been convicted of a violation of any law? A. No, I haven't. Maybe a parking ordinance, but you wouldn't include that, would you?

Q. Apart from any parking ordinance, have you ever been convicted of any violation of law? A. No.

Q. I show you Exhibit No. 5 in evidence in this case which is the Program of the Communist International published by Workers Library Publishers in 1936.

Inspector Zimmerman: Together with its Constitution.

Mr. Roberts: Together with its Constitution, yes.

By Mr. Roberts:

Q. Was this circulated within the Communist Party to your knowledge? A. Yes, it was.

Q. Do you know when it was circulated within the Communist Party? A. After its publication, after 1936. I don't know how long.

Q. But you have seen this? A. Yes.

Q. I mean circulated by the Communist Party? A. In the Communist Party, yes.

Q. Do you know whether it was ever withdrawn by the Communist Party? A. No, it was not.

Q. So far as you know was the Communist Party a section of the Communist International while you have been a member? A. It was until 1939 or 1940, I forget the exact year, but you must have a record of it here, when the Party disaffiliated from the Communist International.

Q. Do you know when the Communist Party of the United States or its predecessor in title became affiliated with the Communist International? A. Yes, about 1922, I think, but I would like to qualify that statement of affiliation because our understanding of our relations with the

Communist International were that we were a fraternal affiliate and never considered ourselves as fully bound by the Constitution or statutes or by-laws of the Communist International. And in so far as its program was concerned, while we accepted its general theoretical and political approach because of its analysis of the world situation, we reserved to ourselves the right to determine how this program is to be applied to the United States.

Q. Was that understanding in writing? A. It was perfectly evident in our practice.

Q. But it was not in writing? A. Which is a matter of public record over a long number of years.

Q. But so far as— A. (Interposing.) And I can demonstrate to you if you wish.

Q. But so far as you know, was there ever any written agreement or anything in writing to indicate that the Communist Party of the United States was not bound by the Program of the Communist International? A. I know that for many years I made it a matter of public record through my own speeches and lectures and other discussions in the Party that the supreme authority of our Party is the National Convention of our Party and that we make our own decisions based, of course, on the general principles of Marxism.

Q. Now you stated that the Communist Party was not necessarily bound by the Program of the Communist International? A. That's right.

Q. Do you know whether that was so with respect to other sections of the Communist International? A. I am not familiar enough with other sections to know whether it was true or not. I understand, if you will accept hearsay, that some parties were fraternally affiliated and others were considered as organizational affiliates bound by the Constitution and statutes.

Q. Was there a provision in the Constitution of the Communist International distinguishing between a fraternal affiliate and any other type of affiliate? A. No, it was determined by the Congress of the Communist International which makes such decisions.

Q. You mean the Congress of the Communist International amended the Constitution to provide for fraternal and other types of affiliates? A. No, it simply made a ruling as to what party could be admitted to a Congress as a fraternal affiliate or what not.

You must remember at that time the name of the Party was Workers Party. It was not even the Communist Party, and the Communist International as well as many Communist Parties were in their formative stages and the statutes of the Communist International were meant to apply to parties that were just coming into being.

And after these parties became mature parties, the statutes fell into disuse and were more or less of an academic question. We certainly always considered them so and, as for myself, I have never considered any authority higher than the supreme authority of our Party which is the National Convention of the Communist Party.

Q. Do you mean to say then that the Communist Party of the United States could, with impunity, disregard a mandate of the Communist International? A. Yes.

Q. Was it ever done? A. It wasn't necessary because the Communist International never made any mandates applying to our Party as such.

Q. Do you remember an incident in 1929 when there was a split in the Communist Party of the United States? A. Yes, I do.

Q. Didn't the Communist International at that time come to a decision which was opposed to the views of the majority of the American Communist Party and didn't the American Communist Party promptly comply? A. On the contrary. The decision to change the leadership of the Party at that time was made by the national leadership of the American Party, not by the Communist International.

All the Communist International could do was to criticize or remove him from one of the international bodies—remove the spokesman for that viewpoint from one of the international bodies of the Communist International. But they had no authority and they didn't remove or expel any of these people from the Communist Party.

They were removed or expelled by the national leadership in the National Convention of the Communist Party itself and that is a matter of record.

Q. I show you Exhibit 5-A in this case which is the Program of the Communist International together with the Statutes of the Communist International published by Workers Library Publishers and this is an edition dated December 1, 1929. Was that circulated by the Communist Party? A. I don't recall this particular edition. I couldn't

say. It looks like it, but the only point of differentiating between different editions is that sometimes there have been very bad translations from the German or French or Russian and we always tried, in order to get clarity, to get the most accurate translation possible.

And that is the only reason I would differentiate between this and any other edition. I am not familiar with this one.

Q. Were the publishers of these two pamphlets, Exhibits 5 and 5-A, agencies of the Communist Party of the United States? A. Who were the publishers?

Q. I believe they were published by Workers Library Publishers. A. No, they weren't agencies of the Communist Party. They had an arrangement whereby they published Communist, Marxist classics which were widely used in the Communist Party, but they were an independent commercial enterprise so far as I know.

Q. Did you ever state that the Workers Library Publishers were agents of the Communist Party or had any connection with them which was a little different from an independent contractual relationship? A. Not that I recall, no.

Q. Do you remember testifying as a witness in your own behalf in the case of the United States versus William Schneiderman in the denaturalization proceedings in California? A. I wouldn't remember every word, no.

Q. No but do you remember that you did testify? A. Oh, yes.

Q. And if I showed you a transcript of the testimony there, do you think you could refresh your recollection? A. Probably.

Q. I have here a transcript of the record in the Supreme Court of the United States, October 1941, in the case of William Schneiderman versus the United States of America. This being the record in the Supreme Court.

Your case did go to the Supreme Court, didn't it? A. Yes.

Q. And at pages 98 & 99 of Volume I of this transcript, I call your attention to the following which appears in the testimony of William Schneiderman, and I quote:

"The Witness: There is a literature department and in addition to that in recent years the

Party has carried on its work through a corporation known as the Workers Library Publishers and the International Publishers.

"Q. One of the publishers you named was the Workers Library Publishers? A. Yes.

"Q. That was a subsidiary of the Communist Party, was it?"

Objection by Mr. Anderson. "To which we object as calling for the conclusion and opinion of the witness.

"The Court: Well—

"Mr. Hennessy: If he knows.

"The Court: If he knows he may answer.

"The Witness: I do not understand the question with regard to its being a subsidiary of the Communist Party.

"Mr. Hennessy: Was it an agent of the Communist Party?

"The Witness: It was organized by members of the Communist Party to publish Communist publications."

Does that refresh your recollection? A. I don't see any contradiction between that and what I have said. I said that this was an independent agency which has a business arrangement to handle Marxist publications and that is all I said there.

My recollection of the details was probably better nine years ago when this trial took place than now, but I don't see any contradiction between what I said then and now.

Q. I am not trying to establish any contradiction, Mr. Schneiderman, I am merely trying to bring out the facts; and if your recollection of the facts nine years ago was better than it is now, then I am trying to refresh your recollection by showing you what you stated nine years ago. A. Which was that it was not an agent of the Communist Party.

Q. But calling your attention to this statement of yours: "A. It was organized by members of the Communist Party to publish Communist publications," that was your statement then, was it not? A. Yes, and that is different than being an agent of the Communist Party.

Q. Was it organized by members of the Communist Party to publish Communist publications? A. I assume so, if that is what I said then.

Q. In other words, you now state that that is the fact based on your recollection? A. Yes.

Mr. Roberts: The question of whether it is an agent of the Communist Party or not is a legal question, I suppose, for the Presiding Inspector.

Inspector Zimmerman: Is that a question to Mr. Schneiderman or a remark to me?

Mr. Roberts: I don't care, it is just for the record.

By Mr. Roberts:

Q. I show you Exhibit 10 in evidence in this case being The Communist Magazine for May 1934. Was this magazine circulated by the Communist Party as of that period? A. Yes.

Q. I call your attention to the following which appears on the masthead of this magazine and I quote: "The Communist, a magazine of the theory and practice of Marxism-Leninism, published monthly by the Communist Party of the United States of America." Was that statement correct? A. Yes.

Q. I show you a photostat which is in evidence as Exhibit 11. This photostat being entitled Fascism, the Danger of War and Tasks of the Communist Party, a Thesis of the 13th Plenum of the Executive Committee of the Communist International.

I understand that this photostat is taken from an article in the February 1934 issue of The Communist Magazine. I understand that counsel has conceded that to be the fact.

Mrs. King: That is correct.

By Mr. Roberts:

Q. Are you familiar with the February 1934 issue of The Communist Magazine?

Inspector Zimmerman: I suggest that the witness be asked whether he is familiar with this thesis of the Executive Committee.

Mr. Roberts: I will get to that, Mr. Presiding Inspector.

The Witness: Well, if the attorneys have stipulated that this is so—

Inspector Zimmerman (Interposing): Do you know it from your own knowledge?

The Witness: Well, I can't look at this and say that I know that this is the thesis of the 13th Plenum. I know something of the thesis of the 13th Plenum of the Communist International but I would have to look through this to see if this is it, because I don't see anything to identify it.

By Mr. Roberts:

Q. If that actually appeared in The Communist Magazine and purported to be the thesis of the 13th Plenum, would you say that it was? A. Yes.

Mr. Roberts: I think that counsel has indicated that this did in fact come from The Communist Magazine for February 1934.

Mrs. King: I believe that is correct, but I wouldn't say at this time that it was the 13th Plenum. At the time I looked at it I knew what it was but I don't remember now unless it is so indicated.

Mr. Roberts: I think the record up to this point has so indicated that.

By Mr. Roberts:

Q. At any rate, you say that you are not familiar with this thesis? A. Well, your last question was that if it was—

Inspector Zimmerman (Interposing): He replied that he is somewhat familiar with the thesis but he cannot state whether this is a true copy of it.

Mrs. King: May we take a short recess?

Inspector Zimmerman: Very well.

(A short recess was taken.)

Inspector Zimmerman: You may proceed.

By Mr. Roberts:

Q. Having during the brief recess glanced over Exhibit 11, can you now identify it? A. Yes, it appears to be the thesis of the 13th Plenum of December 1933. That is the one that I am familiar with.

Q: Do you know whether this was circulated within the Communist Party of the United States at that time? A. It probably was.

Q. Do you know whether this was followed or adopted by the Communist Party of the United States? A. No, it couldn't be adopted by the Communist Party because it dealt with questions far beyond the scope of the American Communist Party. It dealt with world questions and, particularly with the situation in Europe when Hitler had just come to power and when the key question for all Communists was to do everything possible to defeat Hitler to prevent the spread of Fascism on a world scale and to arouse the democratic forces all over the world against Fascism.

With that view, of course, the Communist Party agreed. But it did not accept in toto everything in that document as necessarily applying to the United States, particularly where democracy still prevailed.

Mr. Roberts: I have had my answer, and if you have finished we will go on to the next question.

By Mr. Roberts:

Q. Mr. Schneiderman, I show you Exhibit 12 in evidence in this case being a pamphlet entitled The Way Out, A Program for American Labor, Manifesto and Principal Resolutions Adopted by the 8th Convention of the Communist Party of the U. S. A. This pamphlet being published in May 1934 by Workers Library Publishers.

Does this contain the manifesto and resolutions adopted by the Communist Party to your knowledge? A. Yes, it appears to, although I am not as familiar with this document as I am with some others. I don't recall all the contents of it.

Q. You have seen this before though? A. I have seen the manifesto and the resolutions of the Convention, but not in that particular form. I don't recall this particular manifesto.

Q. I think you stated before that a principal resolution or a resolution adopted by the Convention of the Communist Party would be binding on the Communist Party; is that correct? A. Yes, unless it was superseded at a later date by a subsequent decision or by a change in the political situation. It didn't apply for all time.

Q. But as of the time it was passed a resolution was binding; is that correct? A. Yes, I think that is correct.

Q. This pamphlet, do you know whether this was circulated by the Communist Party at the time of publication? A. It probably was but, as I said, I am not familiar with this. May I add a word on this particular document?

It happens that the political situation in this country changed very rapidly shortly after this Convention and many of the statements in there did not apply for very long. For example, the attitude of the Communist Party toward the Roosevelt administration changed very decisively some time after this Convention because of the fact that Roosevelt began to take up the challenge against the monopolists and economic royalists, and the labor movement and other progressive forces began to rally to support Roosevelt's fight against these reactionary forces.

And, therefore, while this statement adopted by our Convention applied at the time, very shortly the changes in the political situation required the national leadership, the National Committee of the Party and so on, to change the policies of the Party in accordance with the changes in the situation.

Q. But when this was issued this did represent the views of the Communist Party, did it not, despite the fact that there may have been a subsequent change? A. When the resolutions were adopted, yes.

Q. I show you a magazine entitled The Communist for July 1934 which contains two articles which have been marked in evidence as Exhibits 15 and 16 respectively. Do you know whether this magazine was circulated by the Communist Party in July 1934? A. Yes.

Mrs. King: Off the record.

Inspector Zimmerman: Off the record.

(Discussion off the record.)

Inspector Zimmerman: Proceed.

By Mr. Roberts:

Q. Referring now to this magazine I call your attention to the article entitled The Darrow Report appearing at pages 611 to 615 inclusive. Have you ever read that? A. I may have but I don't recall it now.

Q. Well, then we won't take too much time trying to recall it to you and I will pass on to the next one.

I call your attention to the article entitled Unify the Forces of All Steel Workers for an Aggressive Unionism, a Statement of the Central Committee, Communist Party of the U. S. A., which appears at pages 655 through 663 of this magazine.

Now if this magazine stated that this was a statement of the Central Committee of the Communist Party, would you say that that was true? A. Not necessarily. I would say if it was issued by the national office in the name of the Central Committee it could be a statement by its officers, but it doesn't mean that a meeting of the Central Committee particularly authorized the full statement or its formulation in all of its contents.

It probably represented the general approach of the Communist Party but, as I said, I know from personal experience that some situation arises which calls for a statement in the name of the Communist Party which the officers are authorized at times to issue in the name of a leading body of the Party.

At a subsequent meeting of the leading committee for which the officers speak, reports are made that such statements were issued and they are submitted for ratification. Otherwise we couldn't wait to hold a meeting of the National Committee every time some statement had to be issued.

Q. But this was circulated by The Communist Magazine as being the statement of the Central Committee; is that correct? A. Apparently, yes.

Q. Do you have any reason to doubt that it was not the statement of the Central Committee? A. No, all I am saying is that the Central Committee could not meet in session and approve this statement as it. That is all I was trying to establish because I would probably have personal knowledge of the statement which I don't have.

Q. And if this is in fact a statement of the Central Committee, would you say that it is then an official statement of the Communist Party? A. Yes.

Q. Do you know whether the Communist Party issued membership books to its members in the year 1930? A. Yes, it probably did.

Q. Do you remember what they looked like? A. No, they change from year to year.

Q. I show you Exhibit No. 18 in evidence which purports to be and has been identified as a membership book in the Communist Party of the United States, and this bears the date of August 3, 1930. Would you take a look at this, disregarding any written notations, and see whether you can identify that? A. It looks like one, but I wouldn't definitely identify it because my experience has frequently been that such books have been forged. Our own personal experience in California has been that sometimes books like these were stolen from the headquarters of the Party and then suddenly appear at hearings like these where somebody's membership can be forged by inserting a name.

Q. I am not referring to anything written in the book, just the printed matter. A. It looks like one but I couldn't definitely identify it.

Q. I show you a pamphlet which is in evidence in this case as Exhibit 19, the pamphlet being The Communist Manifesto of Karl Marx and Friedrich Engels published by International Publishers, New York, and this copy being the eleventh printing in April 1939. Are you familiar with The Communist Manifesto? A. I surely am. I am helping to celebrate its 100th anniversary this year and I understand that the Immigration Department is finally coming around to admitting that it is not a subversive document.

Mr. Roberts: I move that that last statement be stricken as irrelevant.

Inspector Zimmerman: I will allow it and give it any weight that it warrants.

The Witness: The only reason I mentioned that—

Inspector Zimmerman (Interposing): That is enough.

By Mr. Roberts:

Q. Mr. Schneiderman, in the view of the Communist Party does this contain a true exposition of Marxism as formulated by Marx? A. Yes, it is the basic document of the Marxists.

Q. Do you know whether this was circulated by the Communist Party? A. Yes, it was.

Q. This contains the basic doctrines of the Communist Party? A. Yes, as they apply to the period in which they were written and about the countries about which they were written.

Q. You mean these doctrines have been brought up to date? A. That's right.

Q. By the Communist Party? A. Yes.

Q. What particular individual brought them up to date? A. I don't understand the question.

Q. I will rephrase it. Isn't it a fact that the Marxian doctrine has been brought up to date by one V. I. Lenin? A. Yes, he is the foremost spokesman for the Marxist doctrine of the present period. He brought it up to date in the sense of making a very profound analysis of the imperialist stage of capitalism today.

Q. I show you Exhibit 20 in evidence being a pamphlet entitled State and Revolution by V. I. Lenin published by International Publishers and this particular issue being copyrighted 1932. Have you read that? A. Yes, I have.

Q. Was State and Revolution circulated and distributed by the Communist Party of the United States? A. Yes, I have taught out of this book myself. but I have never interpreted or understood or taught to others that any theoretical principle in this book required advocacy of force and violence in the United States.

Q. That is not what I asked you. All I am asking you is whether this was circulated and distributed by the Communist Party and I think you answered the question yes? A. Yes.

Q. And you say— A. (Interposing) Furthermore, I have taught from it but I haven't interpreted it the way you have.

Inspector Zimmerman: Just a moment. Let's not have a colloquy.

The Witness: Do you want me to identify the documents?

Inspector Zimmerman: Just a moment. This is off the record.

(Discussion off the record.)

Inspector Zimmerman: Proceed.

By Mr. Roberts:

Q. Would you say that the theories contained in State and Revolution are accepted by the Communist Party as being the classical up-to-date version of Marxism? A. You mean in this document.

Q. Yes. A. Yes, I think there are very profound analogies of the social forces at work that apply to any revolutionary situation on a world scale. And the particular country that Lenin was writing about at that time was Russia on the eve of the revolution against czarism.

Q. Was it ever taught that Marxism as brought up to date by Leninism was a particularly Russian phenomenon? A. I don't get the question.

Mr. Roberts: Will you repeat it, please.

(The question was read by the reporter as follows: "Q. Was it ever taught that Marxism as brought up to date by Leninism was a particularly Russian phenomenon?")

The Witness: I never understood it that way. I never was taught that way nor did I teach that view any more than Marxism was a particular German phenomenon.

By Mr. Roberts:

Q. In other words, these doctrines were applicable to all countries, isn't that so? A. In a general way, but not in their specific application.

Q. I show you a pamphlet which is marked Exhibit 21 in evidence being entitled Left Wing Communism, an Infantile Disorder by V. I. Lenin published by International Publishers and this particular issue being copyrighted 1940. Have you seen this before? A. Yes, I believe I have.

Q. Was that circulated and distributed by the Communist Party? A. Yes.

Q. Does this represent a doctrine approved by the Communist Party? A. It was used at the time as an exposition by one of the foremost spokesmen for Marxism on the world situation at that particular time. In that sense it was used.

It was never officially approved that I know of by any Convention of the Party or anything like that.

Q. You say you taught in schools conducted by the Party? A. Classes, public meetings, forums, lectures and so on.

Q. Did you ever use this Exhibit 21 as a text in your schools? A. Only in a certain application. May I give an example?

Inspector Zimmerman: Yes.

The Witness: One of the lessons that we taught from this particular work was that progressive trade unionists should fight in their trade unions for progressive and democratic policies and not leave the trade unions because they happened to be discouraged or disagreed with the reactionary policies of their leaders.

And one of the lessons that we drew from this was that if Marxists wanted to help bring about a change in the policies of the trade unions of this country, they should belong to unions and participate actively in their work, and it was one of the lessons we drew from that.

I remember distinctly using this as a text for that and I don't recall any other particular text.

By Mr. Roberts:

Q. But the book itself was circulated generally? A. Yes.

Q. How about State and Revolution which is Exhibit 20? Did you use that as a text in your schools? A. I thought we went over that already.

Q. Yes, I am just going back to the question of your schools. A. Yes, we did.

Q. I show you a pamphlet entitled Foundations of Leninism by Joseph Stalin published by International Publishers and this edition copyrighted 1939 which pamphlet is in evidence as Exhibit 22. Are you familiar with this? A. Yes.

Q. Was that circulated by the Communist Party during your period of membership? A. Yes.

Q. Does the Communist Party accept Joseph Stalin as the current interpreter of Marxism-Leninism? A. He is one of the foremost spokesmen of Marxism-Leninism.

Q. Does this book contain an exposition of Marxism-Leninism so far as you know? A. Yes, limited to the subject that it deals with there, yes.

Q. Did you use this book in your schools when you were teaching? A. Yes.

Q. Incidentally, did you teach any other subjects besides Marxism-Leninism? A. All subjects would come under that heading. It covers a very broad field.

Q. The Communist Party of the United States founded itself on the principles of Marxisim-Leninism; isn't that correct? A. It is in our Constitution.

Q. That is where I remember having read it. This portrays Marxism-Leninism in the view of the Communist Party; is that correct? A. Yes.

Q. I have been referring to Exhibit 22. I show you a pamphlet which is in evidence as Exhibit 23 which is entitled Problems of Leninism by Joseph Stalin published by International Publishers, copyrighted 1934, and this being the second printing in 1935. Are you familiar with this? A. Yes.

Q. Was that pamphlet circulated and distributed by the Communist Party? A. Yes.

Q. Does this contain the doctrines of Marxism-Leninism as brought up to date by Stalin in a form approved by the Communist Party? A. Yes, subject to the qualifications and reservations that I have already made before, that in all of these expositions of theoretical principles, we always understood them—we approved them and understood them that their application depends upon the specific situation in each country in which we are living.

Q. Did you ever use this as a text in the Communist schools? A. Yes.

Q. I show you Exhibit 24 in evidence being a photostat of a pamphlet entitled The Communist Party in Action by Alex Bittelman published by Workers Library Publishers, May 1934, and this being the first revised edition in May 1934. Have you ever seen this pamphlet? A. I don't recall it.

Q. Do you know who Alex Bittelman was or is? A. Yes. He is one of those that is right now subject to deportation charges.

Q. With respect to the Communist Party of the United States, do you know him? A. He is the president of the association which publishes the Jewish Daily Communist Party, the Morning Freiheit.

Q. Was Mr. Bittelman a member of the Communist Party when this appeared in May 1934? A. Yes.

Q. Did he have any position, any official position, in the Communist Party in May 1934? A. He probably was

a member of the National Committee, although I am not sure.

Q. Is the National Committee the highest committee in the Communist Party? A. Between Conventions, yes.

Q. So that Mr. Bittelman, when he wrote this in May 1934, was a high ranking officer of the Communist Party, was, he not? A. Yes, he was but that doesn't necessarily mean that this is an official document of the Party. Everything I have said in public speeches isn't always necessarily an official statement of the Party either.

Q. How about what you said here today? A. I have specifically stated that these are my views as a Communist and as I interpret the principles of the Communist Party as I have understood them all my life.

Q. But they are not necessarily—I mean your views here today—those of the Communist Party? A. So far as I know they are the best interpretation that I can give to the views of the Communist Party.

Q. But I think from what you have just stated that you are not speaking here officially and in behalf of the Communist Party; is that correct? A. Only as far as my interpretation of those views are concerned and you can't say anything more for any other individual unless I was reading a document at a convention or that the National Committee approved.

Q. Do you know how long this author Bittelman was in the Communist Party? A. I don't know how many years.

Q. As of 1934 when he wrote this he was no novice at it, was he? A. He has been in at least as long as I have.

Q. And would you say that Mr. Bittelman is in a position to know the doctrines of the Communist Party? A. Yes, he is, but he has made mistakes like all of us do.

Q. Would you say that in 1934 he was in a position to know the doctrines of the Communist Party as of that time? A. I suppose so.

Q. You say you are not familiar with this particular pamphlet? A. No.

Q. You have never read it? A. I don't recall. I may have, but I just don't recall. After all, it was fourteen years ago and we publish a great many pieces of literature as you undoubtedly know and you have some of them.

Q. When you say "we" you are referring to the Communist Party? A. We Communists.

Q. I mean, I am trying to find out when you say "we" whether you are referring to the Communist Party or

the International Publishers or the Workers Library Publishers or who? Or are they all the same? A. The Communist Party publishes pamphlets, leaflets, all kinds of literature constantly. It is a matter of public record.

They are distributed by the tens of thousands.

Inspector Zimmerman: Who publishes them for The Communist Party?

The Witness: We publish them ourselves.

Inspector Zimmerman: Under what—

The Witness (Interposing): Before I left California, for instance, the Communist Party published a leaflet protesting against this deportation drive. We published that in our own name.

Sometimes I have made a speech when the Communist Party has published my speech in its own name. These particular books are published by publishing houses but we also publish leaflets and pamphlets in our own name.

By Mr. Roberts:

Q. But when you say the Communist Party publishes books, you mean that they distribute books which are printed by some other printing house, perhaps? A. That is a more accurate statement.

Q. And these books here, for example, which you have identified as having been distributed by the Communist Party, they were in fact distributed by the Communist Party despite the fact that they bear the imprint of Workers Library Publishers or International Publishers? A. Yes.

Q. I show you a pamphlet entitled Why Communism with the sub-title Plain Talks on Vital Problems by M. J. Olgin published by Workers Library Publishers, first edition, December 1933, and this particular edition being made May 1935. This pamphlet is in evidence as Exhibit 25. Have you ever seen that before? A. I don't recall it.

Q. Do you know whether this pamphlet was circulated and distributed by the Communist Party as of the time it was published? A. Yes, I think it was but I don't recall reading it myself.

Q. But it was distributed by the Communist Party? A. It probably was, yes.

Q. If you have any doubt— A. (Interposing) I have no doubt. Let's say I know it was distributed. I just don't recall reading it.

Q. I didn't ask you whether you read it. All I want to know is whether the Communist Party to your knowledge circulated and distributed this? A. Yes.

Q. You never read it? A. Not that I recall, no.

Q. Do you know who M. J. Olgin is or was? A. Yes, he was the former editor of the Freiheit.

Q. Did he have any official position in the Communist Party of the United States? A. I don't remember whether he had any other official position besides the editorship of this paper.

Q. Well, was he recognized as one of the leaders of the Communist Party of the United States? A. Yes.

Q. Did you know him personally? A. Yes.

Q. Was he familiar with the theories of the Communist Party of the United States? A. Yes.

Q. Without having read this, would you say that if he wrote something about the Communist Party of the United States he would probably know whereof he spoke? A. I suppose so, but he had a reputation as being a writer with a very vivid and eloquent literary style, and I have no doubt that his work is colored considerably by his literary imagination, although basically I believe that he understood and developed the views of the Communist Party.

Q. Do you think this might contain a lot of rhetoric? A. Yes, knowing his style I would say that, yes.

Q. But in so far as the basic doctrine is concerned, do you think he would be likely to have that, too? A. Yes, he would.

Q. Exhibit 26 is next. I show you a pamphlet or a photostat of a pamphlet entitled Political Education, the Ultimate Aim published by International Publishers, copyrighted 1935, printed in the United States and bearing Exhibit No. 26. Have you ever seen this? A. I can't recall that I saw this.

Q. The original, I might point out, has a green cover, if that will help you to recollect. A. I couldn't say for sure.

Q. You don't remember ever having used this in the schools you taught at? A. No, I can't identify this particular thing. I mean there is nothing to identify it. There is no author on it; there is no statement of what it comes from or what.

Inspector Zimmerman: On the back side you have a list of pamphlets which are given in a certain course. Perhaps that will refresh the witness' recollection.

By Mr. Roberts:

Q. The blurb on the back by the International Publishers, what about that? A. Yes, but I don't recall this particular one.

Q. I show you a pamphlet entitled The Struggle Against Imperialist War and the Task of the Communists, a Resolution of the 6th World Congress of the Communist International, July-August 1928 published by Workers' Library Publishers, first edition December 1932, and this being the second edition, July 1934. Have you ever seen this before? A. Yes.

Q. Do you know whether that contains the resolution which was adopted by the World Congress of the Communist International as it purports to? A. Yes.

Q. Was this pamphlet circulated and distributed by the Communist Party of the United States? A. Yes, it was.

Q. As of the time of its publication? A. Yes.

Q. Did the Communist Party of the United States subscribe to the doctrines contained in this pamphlet? A. In a general way, yes, although here again I must say that its specific application to the United States did not always apply as it was formulated in this document.

Q. But if there are references in this document to the United States, would you say that that was accepted by the Communist Party as applicable to the United States? A. Well, I would have to see what references you refer to.

Q. Perhaps I will recall them to your attention a little later. A. Even there we might qualify our own position in spite of what the resolution of the 6th World Congress would say.

Q. I show you a photostat of an article appearing in the July 1929 issue of The Communist Magazine. This article is entitled The Revolutionary Struggle Against Imperialist War by H. M. Wicks, and the article is in evidence as Exhibit 28. Do you remember ever having seen this article? A. No, I don't recall it. July 1929?

Q. That's right. A. I don't recall it. But I do know that this individual has been expelled from the Communist Party many years ago.

Q. When? A. I don't know just when, probably in the 30s, and anything he says naturally would be subject to qualification.

Q. But he was not expelled prior to the time this was published? A. No.

Q. He was a member in good standing at that time; is that correct? A. I suppose so, yes.

Q. What position did he occupy in the Communist Party of the United States? A. I don't recall. I think he wrote for the Daily Worker.

Inspector Zimmerman: We will take a short recess at this time.

(A short recess was taken.)

Inspector Zimmerman: Proceed.

By Mr. Roberts:

Q. I show you a pamphlet entitled Thesis and Resolutions for the 7th National Convention of the Communist Party of the U. S. A. by the Central Committee Plenum, March 31—April 4, 1930, which is in evidence as Exhibit 29.

Mrs. King: Off the record.

(Discussion off the record.)

Inspector Zimmerman: Proceed.

By Mr. Roberts:

Q. Have you ever seen this? A. Is this 1939 or what?

Q. 1930. A. I don't recall it, but what it looks like is a draft of resolutions that were submitted to the Party membership before the National Convention. This apparently is not the decisions or resolutions of the Convention because our Party practices or follows the practice of submitting in advance usually documents for discussion by the membership and then it is either approved or amended or so on, at the Convention after the membership has had a chance to discuss it.

This apparently is one of those drafts and is not the decisions of the Convention. You see it specifically states

"For the National Convention," not of the National Convention.

Q. When theses and resolutions were presented for adoption and were adopted, were they subsequently printed? A. I suppose so.

Q. I recall that a little earlier today you identified various resolutions and were asked by counsel whether they had subsequently been adopted and you said yes.

As I gather it, the drafts that you were shown were also merely drafts of resolutions. A. No, they were not. They were not drafts. They specifically stated "Adopted by a Convention or a Committee." This does not say that. This says "Thesis and Resolutions for the 7th National Convention."

Q. Do you know whether these theses and resolutions were adopted by that Convention? A. I couldn't recall whether it was adopted without amendments. That was eighteen years ago; but I can tell you from our last Convention, I was on the Constitution Committee of the Convention and we had hundreds of amendments come in from clubs and state organizations and delegates.

So simply because this was published as a draft does not mean automatically that this was adopted in exactly that form at the Convention.

Q. I show you a photostatic copy of an article appearing in The Communist Magazine for February 1935, the article being in evidence in this case as Exhibit No. 30 and bears the title The Socialist Revolution in the United States by Alex Bittelman. Have you ever read this article? A. What year was this?

Q. February 1935. A. I may have but I don't recall it.

Q. But do you know whether the February 1935 issue of The Communist Magazine was in fact circulated and distributed by the Communist Party? A. Oh, yes, I have no doubt that it was.

Q. And at the prior hearing in this case we produced the original of this exhibit and this is merely a photostatic copy of the original. Now you say that the original Communist was distributed? A. Yes, I have no doubt that it was.

Q. And the author of this article, Alex Bittelman, is the same person, is he not, as the Alex Bittelman to whom you referred to before? A. Yes.

Q. Did he have any particular function with respect to The Communist Magazine? A. I think he wrote for it and served on its editorial board at one time.

Q. This was a magazine of the theory and practice of Marxism-Leninism? A. That's right.

Q. Was Mr. Bittelman considered to be an expert on the theory and practice of Marxism-Leninism? A. Well, I don't know if he was considered an expert. He was one of our prominent members.

Mrs. King: Off the record.

(Discussion off the record.)

Inspector Zimmerman: Proceed.

The Witness: We don't have any such categories as experts since all of us from time to time have been found to have made mistakes in the interpretation of certain political situations or applying certain theoretical principles.

He was one of the prominent leaders of the Party.

By Mr. Roberts:

Q. Well, I merely suggest to you that in a theoretical organ one would naturally suppose that the Party would use one of its foremost theoreticians and since you mentioned that Mr. Bittelman frequently published articles in this magazine I am merely suggesting to you that he was one of the foremost theorists in the Party. A. That isn't what you said. You said whether he was an expert. I don't want to quibble about this.

The point I was trying to make is that our theory is not a dogma or a blueprint. It is a living science, a set of scientific principles and it can change in accordance with changes on the historical scene.

And we Communists, as we gain more experience, also learn from history and sometimes modify or change our views and even admit that at some previous time we may have made some mistakes in our interpretation of a certain situation. That is why you cannot state that anybody is an infallible interpreter of Marxism.

Q. When you say that the Communist Party has changed its views from time to time, are you now speaking about what is commonly known as the "Party Line?" A. It

is known as that outside the Party. We don't refer to it as the Party Line.

Q. Doesn't that word mean anything inside the Party? A. I guess the people who read the newspapers long enough will sometimes unconsciously imitate what they read. But it doesn't have the same connotation as our opponents put to it.

Q. Are the words "Party Line," words of art within the Communist Party? A. What?

Q. Strike that out. Does it have any particular significance within the Communist Party? A. Only in so far as it is one of the phrases usually used by our opponents to refer to Party principles.

Q. Then it would have absolutely no significance to a Communist apart from that connotation? A. To me it doesn't. I don't know whether it would have any other significance to anyone else. I always refer to our Party program, our principles, our theory or the policies that we apply for a specific immediate situation.

I don't use the term "Party Line" and I don't understand the point of it anyway.

Q. I was going to lead up to it. When you mentioned that there have been changes from time to time within the Communist Party, I was trying to ascertain from you the nature of those changes.

Was it with respect to the tactics or was there any change in basic principle? A. No, there was no change in basic principle but there were changes in our understanding of whether particular policies applied to a particular situation.

Q. You mean it was a question of the application of the basic principles? A. That's right.

Q. And the timeliness of the circumstances in which a principle should be applied? A. Yes.

Q. But the basic principles themselves did not change; is that correct? A. That's correct.

Q. And the basic principles were the principles of Marxism-Leninism-Stalinism? A. Marxism-Leninism.

Q. Am I correct in throwing Stalinism in there? A. We refer to our theory as Marxism-Leninism.

Q. Has Marxism-Leninism as a basic theory been static since the death of Lenin? It has developed since then, has it not? A. Lenin brought it up to date in the study of imperialism. Of course it is not static. We learn all the time from history.

I mentioned before we are learning concretely what we always theoretically stated was so, that under certain conditions Socialism could be achieved in a peaceful and democratic manner without the use of force and violence.

Q. You referred to Eastern Europe, I think, in that connection? A. Yes, the new democracies in Eastern Europe.

Q. Specifically with reference to what countries? A. Well, the countries referred to there are Poland, Czechoslovakia, Yugoslavia, Rumania, Bulgaria—I may have missed one or two.

Q. Are you referring to the recent occurrences in Czechoslovakia? A. Yes, I am.

Q. As an example of the democratic development of Socialism? A. Yes, I think that was far more democratic than a Georgia election.

Q. I didn't throw in the Georgia election but you threw in the Czechoslovakian election. A. A parliamentary majority there made whatever changes took place in that government and they were supported by the masses.

Q. Is that a permissible manner in which to achieve Socialism from the point of view of the Communist Party of the United States? A. Evidently the people of Czechoslovakia thought so.

Q. What did the Communists in the United States think? A. Socialism was not the issue in Czechoslovakia. I am merely referring to a historic process which is taking place in these countries where we can specifically state: here are conditions where it is possible that if the old order, the propertied classes, the Fascists, the collaborators of the Nazis will not use violence to prevent the popular will from being exerted, here is a case where a parliamentary majority can take measures which are moving in the direction of Socialism, a transition measure to Socialism such as nationalization and so on.

Q. Do I take it then that the manner in which the present government in Czechoslovakia took power is a manner approved by the Communist Party of the United States? A. The present government in Czechoslovakia as far as I know took power in purely constitutional means.

Q. And that is— A. (Interposing) And lived up to all the rules and constitutional regulations that exist in Czechoslovakia. They represent a parliamentary majority there.

Q. Without characterizing the means, you do say though that that is a manner of achieving state power which under

the circumstances there present is approved by the Communists? A. I don't say that it would necessarily apply in that particular manner to the United States but all I am trying to establish here is that they did take power in a constitutional manner.

Q. How about— A. (Interposing) If the masses of people of Czechoslovakia believe that that is in their interest, we certainly approve it.

Q. And the use of Action Committees, which I understood took place in Czechoslovakia, is that also permissible in the Marxist-Leninist theory? A. I don't know what you mean by Action Committees; but if you are referring to some of the newspaper reports, I would like to inform you of a very gross falsification of the news about the events in Czechoslovakia where for days the newspapers here spoke about the fact that police shot down students and killed them and then a few days later a retraction was published in an obscure place where nobody could see it, that there was nobody killed, that the police didn't shoot into the students, that nobody was hurt and that it was a pure provocation of the press.

So I wouldn't believe everything I read in the newspapers.

Q. How about the manner in which state power was attained in the other countries you have referred to as being examples of the peaceful evolution of Socialism, referring now to Hungary, for example? A. Well, the point is that the evolution of Socialism is possible after such governments have taken power. The fact of the matter is that most of these governments were what we call bourgeois democratic governments which took power under conditions that prevailed after the war, under conditions of chaos, after the defeat of Fascism, and where provisional governments had to be established in order to lay the basis for eventual constitutional government.

These governments were in the main governments which represented the interests and the will of the people there. They were governments that were against Fascism and that took steps to suppress all Fascists and collaborators with Fascism; and some of the acts that these governments were charged with and which were very much bemoaned in the press here, were acts which were aimed at preventing Fascists from coming back to power in these countries.

That is the way we understand it.

Q. As I read it in the papers, the Communists did not get control in Hungary, for example, by parliamentary means; isn't that correct? A. As far as I know they did.

Q. Do you consider it parliamentary means when state power was achieved by the use of armed forces? A. Well, I recall when Lincoln was elected armed forces had to be used to make sure that he could get safely to the Capitol in Washington, D. C., and there was nothing unconstitutional about his assuming the Presidency, however.

In that case there were forces that were trying to prevent the government power from being exerted and the same is probably true in this case.

Q. Probably true? A. Yes.

Q. That is your conjecture? A. Yes. I have no more information than what you have except that I am not perhaps as gullible in believing what I read in the newspapers.

Mr. Roberts: Thank you for the compliment.

Inspector Zimmerman: Am I to understand your statement correctly that you say that taking power by parliamentary means is a basic tenet of Marxism-Leninism?

The Witness: No. What I was trying to say is that this is one of the means by which a party of a class can come into power; under different circumstances a group could come into power in different ways.

Inspector Zimmerman: Is the coming into power of the dictatorship of the proletariat by parliamentary procedures a basic tenet of Marxism-Leninism?

The Witness: Well, if you are referring to the dictatorship of the proletariat as a form of government you are mistaken. Our conception of the dictatorship of the proletariat is not a form of government. It represents a relation of forces in the country between, let's say two classes or two social groups, as to which is the dominant grouping.

Leninism specifically referred to the dictatorship of the proletariat as not a form of government but a state of things, and unfortunately too many people confuse the term "dictatorship of the proletariat" to mean specifically a form of government.

Inspector Zimmerman: Was it the position of Leninism that Soviets would be the organ of government during the dictatorship of the proletariat?

The Witness: In Russia, yes, and he anticipated it would be in other countries, but subsequent events proved him wrong.

Inspector Zimmerman: Then a basic tenet of Marxism-Leninism is that a Soviet state is in control when the dictatorship of the proletariat is in effect after power is seized or taken by the Communists; is that correct?

The Witness: Not necessarily. That happens to be so in the case of Russia but it might never be repeated in the same way.

By Inspector Zimmerman:

Q. May I ask whether that is a basic tenet of Marxism-Leninism without regard to what you think is its application to the United States? I am referring to the theory of Marxism-Leninism, Leninism as promulgated by Lenin in his teachings. A. If you want a yes or no answer I can't answer that question with a yes or no.

Q. Can you refer to anything in his writings which are in evidence in this proceeding to support the statement that it is a basic tenet of Leninism that parliamentary means can be used to achieve the inception of the Soviets under a dictatorship of the proletariat? A. I am not going to introduce any argument on the way you have placed the question because you are not going to put into my mouth what Marxism-Leninism means as I understand it,

But I intend to introduce—

Q. (Interposing) Let me ask the question, please, You have stated that you have a knowledge of what Leninism is? A. Yes.

Q. I understood from your testimony that the teachings of Lenin is the primary source of Leninism; is that correct? A. Marx and Lenin.

Q. Marx and Lenin are the primary sources of Marxism-Leninism; is that correct? A. Yes.

Q. But Marxism of the epoch of the imperialist state of the world is Leninism; is that correct? A. It is fairly accurate.

Q. Now I understood from you that you have made statements as to what Leninism stands for. A. Yes.

Q. Is that correct? A. Yes.

Q. I would like to know from whence comes your knowledge of what Leninism stands for? In other words, are the teachings of Lenin the source for your knowledge of what Leninism stands for? A. Yes, they are.

Q. Then are the documents in evidence of Lenin, State and Revolution, and Left Wing Communism, an Infantile Disorder, are they classics on Leninism? A. Yes, they are.

Q. Have you read and thoroughly digested the contents of these documents? A. I believe so.

Q. Can you refer to anything in those documents which would formulate a basis for your statement that parliamentary means were contemplated in the classic Lenin philosophy? A. Must I limit my evidence to the documents you introduce or may I introduce additional documents? That is what I was driving at.

I intend to introduce such documents from Lenin.

Q. Just a moment. Can you tell me whether there is anything in those particular classical statements of Leninism that would formulate a basis for what you say is the Leninist position? A. I would have to have an opportunity—

Mrs. King (Interposing): Can I object to the question of the Presiding Inspector because I do not think it states the facts in evidence.

Inspector Zimmerman: I beg your pardon.

Mrs. King: I do not think that question states the facts that were formerly stated by the Respondent.

Inspector Zimmerman: What are the facts as you understand the Respondent to have stated them?

Mrs. King: My understanding of the statement made by the Respondent was that it was possible for a Socialist state to be set up by peaceful means. I do not think he stated that that was a basic tenet of Marxism-Leninism.

By Inspector Zimmerman:

Q. Then is it or is it not a basic tenet of Marxism-Leninism? A. Do you want me to answer that question with a yes or no? I cannot answer it that way.

Q. Could you state what a basic tenet of Marxism-Leninism is if, as you say, you are so to speak intimately fa-

miliar with what they are? A. I intended to in my opening statement but you interrupted me and you might have saved yourself some of these questions.

What I was trying to say was that we recognize the role of force and violence in history. We recognize that every social change usually takes place by some forceful or revolutionary means but that our knowledge and analysis of historical experience proves that in most cases—

Q. (Interposing) I am interested at this point, let me again state, not in your understanding but what the Leninist position is in the matter. Now you have said that you have studied Leninism and you are familiar with it.

I ask you what is the position of Leninism? That is, the theory of Leninism in so far as parliamentary majorities are concerned. What is the position of Leninism? A. Well, I am not going to answer that question unless I can answer it in my own way.

Q. Are you able to answer it as an authoritative statement as the Leninist position? A. I certainly am if you will allow me to.

Q. Proceed. A. What I was trying to say was that the Marxist conception of history recognizes—

Q. (Interposing) May I interrupt you again. I do not want the Marxist conception of history. I am limiting my question solely to the Leninist development of Marxism.

Please confine your answer to the Leninist position in this matter. A. All right, the Leninist position. Our understanding of the Leninist conception of history—

Q. (Interposing) I do not want your answer to be "our understanding" but your knowledge of it to the best of your knowledge and belief. Do not speak for other persons other than yourself in your answer. A. Exactly, and that is what I am trying to do.

Q. Then please confine your answer. A. But I protest against your trying to put words into my mouth. If you want me to answer this question, I will answer it.

Q. Mr. Schneiderman, I am not endeavoring to put words in your mouth. A. That is the way it seems to me.

Q. You are, as I have observed, a capable thinker and I do not presume to be able to put words in your mouth as you say. I merely want an answer limited to the question as I put it.

I asked the question as to Leninism and you apparently were not responding in relation to the question. If you can

give me a statement of the classic Leninist position on the matter of parliamentarianism, please do so, otherwise state that you cannot. A. I can if you will let me.

Q. Proceed. A. We use the term "Marxism"—

Q. (Interposing) Again may I ask that you not state "we" but state what your knowledge is of the Leninist position, the classic Leninist position with respect to parliamentarianism. Proceed. A. I use the term Marxist and Leninist interchangable, and if you don't object, I am going to continue to do so.

Q. Please differentiate. A. There is no differentiation in our minds—in my mind.

Q. In other words, you cannot distinguish that philosophy which is Marxism and that philosophy or theory of tactics which Lenin developed? A. That's right.

Q. You cannot distinguish between the two? A. Leninism is Marxism.

Q. You say that they are identical? A. Yes, except that Leninism brought Marxism up to date.

Q. Then it was a development of Marxism? A. Yes, but we refer to our theory as Marxism or Marxism-Leninism.

Q. And you are in your answer going to state what the Leninist position is with respect to parliamentarianism? A. If I can complete one thought without interruption I would have had this over with fifteen minutes ago.

Q. Proceed. A. I started to speak about our conception of force and violence because that is involved in this question, too. I always view it as a Marxist, as a Leninist, that force and violence entered into all social changes because those ruling classes that were being ousted from their dominant position by the people would always use violence to prevent the democratic will of the people from being realized and would use it even against constitutional governments.

Now my understanding of our theory is that if such interference did not take place by those privileged classes that are trying to prevent these social changes from taking place, then it is perfectly possible that in a peaceful and democratic manner through parliamentary means there could be put into office or power a government that would take steps toward eventually Socialism.

Q. I am asking you now whether that is the position of Leninism or advocated by Lenin in his writings? A. That is what I have learned from a study of Marx and Lenin all

my life and that is what I have taught; that is what I have spoken about throughout the history of my life in the Party as I understood it.

Q. Can you show me anything in the two documents which are the classic statements of Leninism which are in evidence State and Revolution and Left Wing Communism, an Infantile Disorder, which would support your statement that it was ever anticipated by Lenin that the dictatorship of the proletariat could come into being without the use of force and violence?

Can you show me anything in those pamphlets which would support your position? A. I don't know unless I studied them, went through them; but I will say this—

Q. (Interposing) Were you not a teacher— A. (Interposing) May I complete my sentence, please?

Q. All right. A. I will say this that from the vast store of writings on Marx and Lenin to attempt to say that a view of Marxism and Leninism can be obtained only from one little pamphlet and from no other, in my opinion is reducing this discussion to an absurdity.

I said that I will attempt, if I am permitted later or my attorneys, to introduce some quotations from the writings of Marx and Lenin which will bear out the statements that I have made.

Q. But were these writings of Marx and Lenin to which you refer ever given general circulation as these two pamphlets which one of them states "in another special edition is a great classic on the nature of the state, Capitalist and Proletarian Revolution by V. I. Lenin?"

In other words, my question is, were these other publications or these paragraphs which you say you are going to quote here given the wide circulation by the Communist Party or the Communist International as these particular publications which appear in the Little Lenin Library as listed on the reverse side of the document, Exhibit 20 in evidence?

Do you understand my question? A. Yes. We don't show any partiality to the distribution of Marxist or Leninist literature. The quotations which I would like to introduce will be taken from, I believe, what is known as the Collected or Selected Works of Lenin, and those were widely circulated.

I don't have the figures on their circulation, but they were widely circulated.

Q. And you state that tomorrow you will introduce these? A. Yes, I will introduce them.

Q. You will introduce these paragraphs which will support your statement that Leninism stands for the possibility that the dictatorship of the proletariat can be achieved by parliamentary means? A. Well, what I would like to say is that I don't believe that our position can be determined by a battle of quotations. I think that our position can best be determined by the Communist Party's understanding and interpretation of theory.

Q. My question at this point is not concerned with the position of the Communist Party. I am referring to the classic Leninist position in the matter and not to the position of the Communist Party, and I wish to make that clear.

I am interested, and my question at this point is concerned with the Leninist position in the matter, the theory of Lenin, not with its application, as you have stated, by the Communist Party of the United States.

What is the Leninist position, the position of Lenin himself, with regard to parliamentarianism? A. Your question reminds me of the testimony of one of the witnesses in my trial.

Q. Can you answer the question directly, Mr. Schneiderman? A. Yes, I can if you will let me answer it in my own way; but I have already answered it several times that Leninism and all who interpret Lenin's theories believe that Socialism and a government that would establish Socialism can be achieved under certain conditions in a peaceful and democratic manner if no attempt is made by violence and by other forces to prevent that democracy from being realized.

Q. And assuming that the state issues decrees lawfully which make it impossible for the dictatorship of the proletariat to be proceeded with other than by illegal means, what is the Leninist position in that matter? A. Well, if you are referring to a Fascist dictatorship, I would say if I were a German living under Fascism, I would use every means at my disposal to fight against and defeat and overthrow Fascism; overthrow a Hitler dictatorship.

But we are speaking about countries in which some measures of democracy still exists, but where proceedings of this kind seem to be stamping out some democratic rights very rapidly.

Inspector Zimmerman: I am sorry to have intervened at this point, you may proceed.

By Mr. Roberts:

Q. Did Leninism or Marxism-Leninism contemplate that Socialism would be obtained by peaceful means? A. I recall that Marx or Engels at one time wrote that in their opinion it was possible under certain conditions that it could be achieved in England or America by peaceful and democratic means provided that that democracy was not prevented by some form of militarism or other form of reactionary rule.

Q. And didn't Lenin say that that exception in favor of England and the United States which had been stated by Marx, I believe, was no longer tenable in 1917 in view of the fact that England and the United States had embarked on the imperialistic war then going on?

In other words, wasn't it true that Lenin said that in the age of imperialism this exception in favor of England and the United States no longer prevailed?

Inspector Zimmerman: Mr. Examining Inspector, I invite your attention to the specific passage that appears in Foundations of Leninism by Stalin.

Mr. Roberts: I don't want to quote. I am speaking about the witness' knowledge generally, and if he doesn't have general knowledge, I may refresh his recollection by referring to documents in evidence.

The Witness: Yes, I know what you are referring to. That was Lenin's opinion at the time but Lenin couldn't foresee that certain historical changes would take place.

For instance, that took place in Eastern Europe today where some countries are moving in the direction of Socialism, achieving certain measures towards Socialism in a peaceful and democratic way. So that simply Lenin's opinion at that time that the circumstances wouldn't permit it doesn't in any way change our views that unless democracy is completely stamped out in America, which would mean if a Fascist dictatorship of the Hitler type was established here, we intend and will try to educate the people to achieve Socialism in a democratic and peaceful manner.

By Mr. Roberts:

Q. Did the Communist Party of the United States always have the same attitude about the probability of achieving Socialism in the United States by peaceful means? A. There were times when it may not have stated so but historical experience has helped to shape our views on this question today.

Q. But is this one of the items on which there has been a change from time to time in the views of the Communist Party? A. No, there has been a debate and a public discussion on the question. There were times in the early days of the Communist Party when it was not as mature as it is today when it didn't, it couldn't interpret Marxism in as mature a fashion as it does today when it formulated its position differently and mistakenly in our opinion.

Q. What was its mistaken position at that time? A. If it gave the impression that the experience of Russia or of a fascist Germany must necessarily apply to a democratic America.

Q. Was that the impression at one time within the Communist Party? A. Not within the Communist Party because I never understood it that way, but evidently some people outside the Communist Party did.

Q. Did you ever hear of the doctrine of American exceptionalism? A. Yes, I have.

Q. Would you tell the Presiding Inspector just what that doctrine is? A. That was a doctrine developed by one of the former leaders of the Communist Party who was later expelled, Jay Lovestone, who took the position that the contradictions of capitalism didn't apply to the United States; who took the position that whereas on a world scale there might be a crisis in capitalism nevertheless America was so strong and all-powerful that it could avoid the effects of a crisis in this country.

This was the position, the belief which became known as American exceptionalism, and unfortunately for Mr. Lovestone it was developed in the middle of 1929 when everybody was talking about booms and permanent prosperity but where a few months later in October 1929 came the crash and the beginning of the economic crisis which also wiped out this theory of American exceptionalism.

Q. Wasn't it about that period, Mr. Schneiderman, that the Communist Party came to the conclusion that the so-called capitalist stabilization had ended? A. Yes.

Q. Have you heard that expression? A. Yes.

Q. What did that mean? A. It meant that the coming of the economic crisis marked the end of a period in which the economy of the country and of the world had reached a relative stage of stabilization and the economic crisis obviously wiped that out.

Q. What did the Communist Party contemplate would happen when this period of crisis occurred? What did they predict? A. We predicted that in a number of countries the workers would be strong enough to come into power, particularly in countries like Germany and other countries that had reached an advanced stage of the labor movement and so on.

Q. Isn't it one of the tenets of Marxism-Leninism that in time of crisis the bourgeoisie attempt to place the full brunt of the depression on the working class? A. Yes.

Q. And didn't they predict that that was going to happen in the crisis which was predicted at that time? A. They not only predicted it but it did happen.

Q. Didn't they predict that the bourgeoisie being in control of the bourgeois state would use all the power of the state to keep the working class down economically? Wasn't that part of the Marxist-Leninist theory? A. Yes, it was also part of American life. I remember when policemen broke up unemployed demonstrations and shot down workers who were trying to organize the Ford plant which now has become a perfectly little thing, but in those days police used force and violence in preventing workers from using those elementary rights.

Q. Is that the force and violence which is referred to by the Marxist-Leninist theory when it says that the bourgeois state employs force and violence against the working class? A. Yes.

Q. And it is that force and violence which the Marxists-Leninists say they must counter with force of their own? A. No, they state that people will defend themselves and will use force in self-defense when that kind of force is used against them.

Q. May I suggest to you some other forms of force and violence and ask you whether these are the types of force and violence which the Marxist-Leninist theory cites as being used by the bourgeois state?

For example, in a period of depression when a worker is dispossessed because he can't pay his rent: wasn't that an

example of force and violence used by the bourgeois state against the worker? A. Yes.

Q. Is that typical or is that one of the types of force and violence that they complained of and said they had to defend themselves against? A. Yes.

Q. Even though within the framework of the bourgeois state it was perfectly legal for a constable or a sheriff to come along with a writ and dispossess the worker who hadn't paid his rent? A. Yes; well, that is what makes people Communists. That it is perfectly legal to put people out on the streets that way.

Q. But in the Marxist-Leninist theory then it was permissible to use force and violence to defend yourself against something perfectly legal? A. You mean a policeman's club is legal if someone tries to take my constitutional rights away?

Q. I am asking you theory now. A. Well, I am talking in practice the way the Communist Party interpreted that theory.

Q. Let's get down to practice then. Here is an example I just gave you. You are a poor working man and there is a depression. I own the hovel in which you live, and because I am anxious to get my rent on time and because you haven't paid your rent, I get a constable to throw you out. I don't know what the process is here in New York State, but he comes armed with the process of the law and he is acting within the framework of legality in dispossessing you in order that I get a new tenant. That is legal in practically all states, I believe, and yet according to the Marxist-Leninist theory you, the dispossessed, have the right to use force to counter my constable's force; is that correct? A. If I were dispossessed or if I were a neighbor of the dispossessed I would help him put his furniture back into his house and you don't have to be a Marxist to do that. You just have to have common decency.

Q. I am merely speaking about the type of force and violence which the Marxist-Leninist theory states is used by the bourgeois state against them and which they will counter with force and violence when necessary. A. They simply predict that when people are subjected to those kinds of things that they will fight back and defend themselves, and they won't always stop to see whether it is legal or not.

As a matter of fact, many of these things that are interpreted as legal can be challenged on constitutional grounds as the Taft-Hartley Bill is being challenged today.

Now you may consider it an illegal act for somebody to strike or to do something else that is proscribed by the Taft-Hartley Law but if workers, trade unionists, will challenge that as the CIO and Phil Murray has and deliberately violate that law because they believe that it is unconstitutional and that it is against the interests of the nation and the American people, you can interpret that as illegal advocacy of force and violence, but I think it is in the good American tradition and that is one of the ways in which American democracy is expressing itself at its best.

Q. Getting back to the question of legality then, do I understand you to state that legality as such is not overly important in the Marxist-Leninist theory? A. I have said nothing of the kind. I have simply said that I will always fight against something which I consider unconstitutional and taking away my rights as an American.

Q. It is not your particular views that are in issue here, Mr. Schneiderman. I am merely trying to find out what the views of Marxism-Leninism are. A. To me this is not an academic debate. I feel very deeply on the questions involved here and I can't keep it on the level of pure objectivity. I have no personal animosity against you in the matter.

Q. That is not the point. I am merely trying to find out as objectively as I can just what this force and violence is in Marxism-Leninism because that is one of the crucial points involved in this case,

I thought I understood you to say that it was justifiable in Marxist-Leninist theory to use force against the force of the state in applying a doctrine which the state considers legal and which is upheld as legal.

Now if I may proceed a little further, regardless of what you may personaly feel and regardless of any moral questions involved, I think throughout our land under the system that we have here, it is perfectly legal in the example I gave you before for a landlord to use the process of law to dispossess a tenant who doesn't pay rent.

Now that is perfectly legal and I think you will concede so, isn't that so? A. Yes.

Q. Even though it may be immoral from your point of view and it may be highly undesirable from the point of view of many people, but it is legal, is it not? A. Yes.

Q. And the law enforces its mandate in that case by the use of force. It has a constable go there with the might of the law behind him. Now you have told me that under those circumstances the Marxist-Leninist theory says legality be damned; right is on our side and we will use our force to counter the force of the law, if I understand you correctly. A. I have never said anything nor has anyone following the Marxist theory ever advocated violating the law or in any way violating the Constitution of the United States. But you spoke about whether it is morally correct or not.

Many things which are considered as immoral today are considered moral at some future time. Many things that are considered illegal and impractical today become legal and practical tomorrow as many features of social legislation establish in law what it took people to fight for on the picket line when they were fighting for the rights of the trade union or when they were fighting for unemployment insurance or fighting for relief.

My answer to this question could probably be best referred to by the way Emerson or Thoreau felt when they refused to pay taxes at one time because they thought it was unjust; and when a friend of his said to him, "What are you doing in jail?" His answer was, "What are you doing out of jail?"

Mr. Roberts: I think it might be a good idea to recess at this time.

Inspector Zimmerman: The hearing is recessed until 1:30 o'clock tomorrow afternoon, March 10.

(Whereupon, at 5:30 o'clock, p.m., the hearing was adjourned.)

Record of Reopened Hearing, March 10, 1948

UNITED STATES OF AMERICA,

DEPARTMENT OF JUSTICE,
IMMIGRATION AND NATURALIZATION SERVICE.

[SAME TITLE]

70 Columbus Avenue,
New York City, N. Y.
March 10, 1948,
1:30 o'clock, p.m.

Met pursuant to adjournment.

Before:

HON. GILBERT ZIMMERMAN,
Presiding Inspector.

Appearances:

MAURICE A. ROBERTS, Examining Inspector,
For the Department of Justice,
Immigration and Naturalization Service.

MRS. CAROL KING and ISIDORE ENGLANDER,
For the Respondent.

Inspector Zimmerman: Mr. Examining Inspector, are you ready to proceed?

Mr. Roberts: I am.

Inspector Zimmerman: Counsel, are you ready to proceed?

Mrs. King: I am.

Inspector Zimmerman: Mr. Examining Inspector, you may proceed with your cross examination of the witness, Mr. Scheiderman, who is now on the stand.

WILLIAM SCHNEIDERMAN resumed the stand and testified further as follows:

Cross examination by Mr. Roberts (continued):

Q. When we concluded the hearing yesterday, Mr. Schneiderman, I believe you were discussing the nature of the force and violence which the Communists contended were used by the bourgeois state against the working class. Do you recall our discussion there? A. Yes.

Q. I would like to develop that a bit further. I believe you testified that the Communists stated that force and violence would be used by the Communists only if the bourgeois state used it against the Communists first, am I correct in that? A. No, I didn't say anything of the kind.

Q. Well, could you tell me just what the Communist Party position is in that regard? I want to get your statement correct. A. I think I stated it yesterday but if you want me to repeat it I will.

Q. If you can do it succinctly. A. I did not state that Communists would advocate force and violence if force and violence were used against them. I stated that our view of history shows that force and violence is always used by a dominant class when its privileges and its ruling position is threatened by some new democratic force coming forward and when that new democratic force becomes a majority and becomes a force that comes into power as the government, then the old dying class usually uses force and violence to prevent that democratic will of the people from being expressed.

That is the way force and violence expresses itself at all stages of historical and social change. Now all I stated was that our theory recognizes that and most bourgeois historians do as well.

It is simply a question of how you want to interpret it or misinterpret what we say about the development of social changes.

Q. But what was the Communist position with respect to the maturity of capitalism in that regard? Didn't they state that capitalism would mature in the same way as former social orders had matured and that capitalism in turn would attempt to hold on and have to be unseated by the new order of Socialism by means of force and violence? A. I did not say it would have to be unseated by means of force and violence.

Q. What was their view on it? A. I already stated that the only necessity for force and violence would occur if the old ruling class would refuse to give up power that was obtained by democratic means by the people, and the best examples I can give you are two examples which illustrate perfectly clearly the Marxist view of this and I believe verify it.

Inspector Zimmerman: May I interrupt you to ask that the questions and answers be limited either to the witness' own statement of what he knows of his own belief or what he knows is the Communist position.

We are apparently here talking of a rather indefinite group of people called "they" or "Communists". I would prefer that it come down to the issues of the case. That is, the teachings or belief or doctrines of the Communist Party of the U. S. A., the Communist International in so far as this witness is able to state what his knowledge is of their teachings or doctrines.

Would you rephrase the question to limit it to that?

Mr. Roberts: Mr. Presiding Inspector, I agree with your statement and I shall be happy to rephrase my question.

By Mr. Roberts:

Q. Was it not the position of the Communist Party that the capitalist class in the United States would never permit the evolution of Socialism peacefully by democratic means? A. Our position is that the history shows that no ruling class has ever permitted its power to be taken away by peaceful means. And may I conclude my thought which I tried to conclude on the last question, the best example from American history is the Civil War where a constitutional government was forced to use force and violence to back up its position against the Southern slave owners who rebelled against the constitutional authority because they refused to give up their privileges of slave owning.

Another example from more recent history is the case of Spain where a constitutional government, the Spanish Republic, was overthrown by a revolution organized by the old landlord and anarchist and Fascist element from

within Spain, supported and aided by Fascists from outside Spain, but there is another case where a constitutional government was overthrown by force, by reactionary forces, that were trying to prevent the march of progress, the further development of democracy and social progress.

Q. Turning now back to the United States, was it not a fact that the Communist Party viewed the ruling class in the United States as being a capitalist class? A. Yes.

Q. And in accordance with their view of history, was it not their doctrine that the capitalist class in the United States would not permit the development of Socialism peacefully? A. If we can judge by previous history, yes.

Q. I am not asking you— A. (Interposing) I am not a crystal-ball gazer, I don't know what will happen. All I can say is what we would say under certain circumstances.

Q. What did the Communist Party state under the circumstances that were present during the period of their existence in the United States? Wasn't it part of Party doctrine that the capitalist system in the United States would not be overthrown by Socialism except by force and violence? A. No, that is not true. I have never taught that doctrine and I don't believe that anybody who understood Marxism ever got that interpretation of the Marxist doctrine.

Q. And isn't it further a fact that the Communist Party criticized and castigated theorists who stated that Socialism could come about in the United States by peaceful means? A. They criticized those that failed to see the role of force and violence in all historical processes.

Q. Can you name any particular groups that were criticized by the Communist Party for this reason? A. Yes, the Socialists.

Q. And the Socialists were criticized by the Communist Party, were they not, because they believed and stated that Socialism could be achieved in the United States through the electoral process and the ballot box? A. No, the main criticism of the Socialists was that while they talked Socialism, they never believed in Socialism. When they came into office they supported capitalism and the best proof of that is the British Socialists who are in power today.

Q. I take it then that the Communist Party does not favor the British Socialists at the present time? A. We certainly do not because they happen to be following exactly the same policies as Wall Street.

Q. Then you do not include Britain as one of the countries where Socialism is on the way by peaceful means? A. No, I didn't say that. You inferred that from my remarks. It is perfectly possible that under certain historical circumstances Socialism can be achieved in Britain by peaceful means and if the British Socialists had not abandoned Socialism once they were in power as they are now, they could have taken the first steps as some countries of Europe did for the transition to Socialism in a peaceful and parliamentary manner.

Inspector Zimmerman: Mr. Schneiderman, would you please allow the Inspector to finish the question before you answer it.

The Witness: Yes, if I will be allowed to answer the question as well.

Mr. Roberts: I will be happy to have you answer any question that I ask you. I would request you to be as responsive as you can.

The Witness: I am trying very hard to be.

By Mr. Roberts:

Q. Now you stated yesterday that the Communist Party was a Party which followed Marxism-Leninism? A. Yes.

Q. And I believe you also stated that Lenin was considered as the foremost authority on that subject? A. That's right.

Q. And his book, State and Revolution, which is in evidence in this case as Exhibit 20, was not only distributed by the Communist Party but that it was used as a text in its schools? A. Yes, it was.

Q. And you used this as a text in its schools? A. Yes.

Q. I should like to call your attention to the following language in Exhibit 20 which appears at the bottom of page 19 and goes on to page 20: "We have already said above and shall show more fully later that the teachings of Marxism and Engels regarding the inevitability of a violent revolution refers to a bourgeois state."

Inspector Zimmerman: "To the bourgeois state."

Mr. Roberts: Correct.

By Mr. Roberts:

Q. "It cannot be replaced by the proletarian state (the dictatorship of the proletariat) through 'withering away.'

But as a general rule only through a violent revolution."

Do you recall that? A. Yes.

Q. Wasn't that the doctrine which was espoused by the Communist Party in the United States? A. This doctrine of Lenin's referred to the Russian experience and was based on the circumstances that existed in the developing Russian revolution at that time.

It was written in 1917 on the eve of the revolution and formed the basis for the program of the Communists at that time in leading the Russian revolution. This does not necessarily apply to any country where the same circumstances do not exist.

As I already stated yesterday, the circumstances under czarism or under a Fascist dictatorship such as Germany might force the people to take such action as they did in the American revolution and in many other revolutions.

But under democratic forms of government where other democratic processes are open to the people the change from capitalism to Socialism does not necessarily take place in the same form as it did in Russia.

Q. Do you mean to say then that the doctrines expressed by Lenin were not applicable to the United States? A. Not in every word and detail, no. In its broad general approach, yes. But in its specific application, no, because America was and is an entirely different country than Russia and the historical circumstances are entirely different between a modern industrialized state living under a democratic republic and a backward semi-feudal country living under czarism.

We could not possibly apply the same yardstick to both countries exactly the same way.

Q. But the language I have just quoted, isn't that an integral part of Marxism-Leninism? A. Yes, it is.

Q. And Marxism-Leninism was the keystone of the Communist Party of the United States, was it not? A. Yes, it was.

Q. Then how can you tell me that this was written purely from the point of view of the Russian experience? A. It was not a blueprint for revolution in every country of the world.

Q. But as a doctrine, was it not applicable in other countries which had bourgeois systems? A. It was applicable in countries that had the same historical conditions as Russia did.

Q. And only to those countries? A. That's right.

Q. Do you have anything or do you know of anything in this book which says that? A. Well, you have read it, suppose you tell me.

Inspector Zimmerman: Mr. Schneiderman, can you answer the question that was put to you?

The Witness: Yes, I intend to. I have some documents there which I am going to introduce.

Mr. Roberts: Very well, when he has his documents we will let him point out where it states that the doctrines contained in State and Revolution are applicable only to Russia.

The Witness: All I intend to do—don't put any words in my mouth.

Inspector Zimmerman: Just a moment, Mr. Schneiderman. Can you answer the question the way it was put?

The Witness: I will. Pardon me—

Inspector Zimmerman: (Interposing.) Just a moment, let me finish. What is the question?

(The reporter read the question as follows: "Q. Do you have anything or do you know of anything in this book which says that?")

Inspector Zimmerman: Can you show anything in this book which would support the statement you just made?

The Witness: Well, I didn't memorize the book, I assure you.

Inspector Zimmerman: Do you want time to scan it?

The Witness: No, I don't. If you want my opinion, I will give it to you.

Inspector Zimmerman: Just a moment, are you able to answer the question?

The Witness: Yes, I am if you will let me.

Inspector Zimmerman: The question is, I believe, is there anything in this book which would support the statement you made? What is your answer to that question?

The Witness: My answer is that this book was written based on the Russian experience.

Inspector Zimmerman: But your answer isn't—

The Witness: (Interposing) And I am sure that Lenin didn't anticipate whether you would want to know whether he meant America too.

Inspector Zimmerman: That is not entirely responsive to the question. The question put to you by the Examining Inspector is: can you show him anything in this book which supports the statement that you made?

The Witness: I have already stated that I will introduce documents by Lenin which I hope will answer the question.

Inspector Zimmerman: That is not responsive to the question.

The Witness: My answer is I don't know.

Inspector Zimerman: Then you should say so.

By Mr. Roberts:

Q. You don't know whether there is anything in this book? A. Not unless I have a chance to read it from cover to cover.

Mr. Roberts: I may suggest if counsel thinks there is anything in here she can call attention to it in her brief and we don't have to have the book examined right now since it is in evidence.

The Witness: I don't think it is important or else I would read it from cover to cover to find out what you want.

By Mr. Roberts:

Q. Continuing in the same exhibit at page 20 I find the following statement by Lenin and I quote: "The replacement of the bourgeois by the proletarian state is impossible without a violent revolution. The abolition of the proletarian state, i.e., of all states, is only possible through 'withering away.'"

Do you recall that statement? A. Yes.

Q. There is nothing at that point to indicate that that is purely a Russian phenomenon, is there? A. No, except that this was written in the Russian language about the Russian revolution and applied by the Russian Communist Party.

Q. But isn't this one of the classical expressions of Marxism-Leninism? A. Yes, just as Marx's writings about the

French revolution and the Paris Commune and about the peasant war in Germany and the revolutions of 1848 are also classics for all Marxists throughout the world and for that matter for many bourgeois historians.

Q. I call your attention to the following which I am going to quote from pages 22 to 23 of Exhibit 20: "The petty bourgeois Democrats, these sham Socialists who have substituted for the class struggle dreams of harmony between classes, imagined even the transition to Socialism in a dreamy fashion not in the form of the overthrow of the rule of the exploiting class but in the form of the peaceful submission of the minority to a majority conscious of its aims.

"This petty bourgeois utopia indissolubly connected with the idea of the states being above classes in practice led to the betrayal of the interests of the toiling classes as was shown, for example, in the history of the French revolutions of 1848 and 1871 and in the participation of 'Socialists' in bourgeois cabinets in England, France, Italy and other countries at the end of the 19th and the beginning of the 20th centuries."

Do you recall any statement like that? A. Yes.

Q. That was part of the Marxist-Leninist doctrine, was it not? A. Yes.

Q. There is nothing here to indicate that this is purely applicable to Russia, is there, apart from your statement that it was? A. No, except that that is the way we understood that it applied to conditions either in Russia or similar to the Russian experience.

Inspector Zimmerman: By "we" you mean who?

The Witness: The Communist Party.

Inspector Zimmerman: Of the United States?

The Witness: Of the United States, yes, and every other Communist Party for that matter that I know of.

Inspector Zimmerman: I thought yesterday you said that you didn't know very much about what some of the other Communist Parties in the world held to?

The Witness: I didn't say anything of the kind. I read very widely on what the other Communist Parties have said.

Inspector Zimmerman: It is my recollection of your testimony that it was to that effect but we will let it pass.

The Witness: I cannot speak for the other parties.

Inspector Zimmerman: Would you mind not interrupting. I will allow you the same privilege and I will hear you to the end if you make a relevant answer to the question, but please don't interject in the midst of a question.

The Witness: I am sorry.

Inspector Zimmerman: Mr. Examining Inspector, you may continue.

By Mr. Roberts:

Q. You stated before, I believe, that the Communist Party did not believe that force and violence would be involved in a country which had democracy; is that correct? A. Yes.

Q. And in the opinion of the Communist Party was the United States a country which had democracy? A. Yes, it has.

Q. Did the Communist Party believe that the bourgeois system and democracy were compatible? A. Yes, the bourgeois system brought a higher level of democracy to the countries where capitalism came into existence than existed in previous periods, a far higher level of democracy, but we think it has its limits.

Q. I call your attention to the following which appears in Foundations of Leninism which is Exhibit 22 in evidence in this case and I quote from page 54: "The theory of 'pureness' of democracy is the theory of the upper stratum of the working class which has been broken in and is being fed by the imperialist robbers.

"It was brought into being for the purpose of concealing the ulcers of capitalism, of touching up imperialism and lending it moral strength in the struggle against the exploited masses. Under capitalism there are no real 'liberties' for the exploited nor can there be, if for no other reason than that the premises, printing plants, paper supplies, etc., indispensible for the actual enjoyment of 'liberties' are the privilege of the exploiters.

"Under capitalism the exploited masses do not nor can they really participate in the administration of the country.

For no other reason than that even under the most democratic regime governments under the conditions of capitalism are not set up by the people but by the Rothschilds and Stinneses, the Rockefellers and Morgans.

"Democracy under capitalism is *capitalist* democracy, the democracy of the exploiting minority based on the restriction of the rights of the exploited majority and directed against this majority."

Have you ever heard that before? A. Yes, I have.

Q. He is speaking about the United States there as well as other capitalist countries, is he not? A. Yes, especially of the South. He must have been thinking of the South.

Q. He refers here to democracy in general, I believe, and he has specific reference to the United States, because he refers to certain important United States individuals.

Now what have you to say to this with respect to your statement that the United States was considered a democracy by the Communists? A. Yes, I think it is a very accurate description of democracy in the South. He must have been thinking of the South there.

Q. There is nothing in here that refers to the South, is there? A. No, but is there anything that indicates that he didn't refer to the South?

Inspector Zimmerman: Mr. Schneiderman, will you please let the Examining Inspector finish a question before you proceed to answer.

By Mr. Roberts:

Q. I am perfectly willing to have this read by the Presiding Inspector and understood by him in the usual meaning of words. If you have any way of explaining this in any other fashion, I am giving you an opportunity to do so.

If you have nothing further to say to this, we will pass on to something else. A. Well, my explanation is, if you want to consider whether democracy is at its highest stage in the United States I would suggest we discuss whether we have democracy in the South and I am sure that that is what Lenin was referring to.

Q. I would rather stick to the issues in this case. A. Well, I don't see how you can discuss them abstractly when you have some concrete examples of what we are talking about. You want to be specific on some quotations there but when I try to be specific you don't want to get so specific.

Q. I would be very happy to be specific on anything.

Inspector Zimmerman: Let's not indulge in wrangling. Put a question to the witness and let him answer it.

By Mr. Roberts:

Q. Reading from the same exhibit, I call your attention to the following language which appears at the bottom of page 54: "Second conclusion: The dictatorship of the proletariat cannot arise as the result of the peaceful development of bourgeois society and of bourgeois democracy. It can arise only as the result of the smashing of the bourgeois state machine, the bourgeois army, the bourgeois bureaucratic machine, the bourgeois police."

Do you recall that? A. Yes.

Q. Is not that the manner in which the classical theories of the Communist Party stated that Socialism would be accomplished? A. That is exactly what happened in Russia, but it doesn't necessarily apply to the United States.

Q. I call your attention, Mr. Schneiderman, to the fact that what I have quoted follows immediately the preceding reference to capitalism and the Rockefellers and Morgans. Do you want to look at it? A. I take your word for it. I know the passage.

Inspector Zimmerman: Can you substantiate your statement by reference to anything other than your own statement in this respect?

The Witness: What is that?

Inspector Zimmerman: That that is wholly limited in its application to Russia.

The Witness: I did not say it was wholly limited to its application to Russia. I said that this book was conceived—

Inspector Zimmerman (interposing): I am referring, Mr. Schneiderman, to this passage. Please confine your answer to that passage.

The Witness: I was not at Lenin's elbow when he wrote State and Revolution. I can just read the English—

Mr. Roberts (Interposing): This is Foundations of Leninism.

Inspector Zimmerman: Mr. Schneiderman, the issue right before us at this moment is your state-

ment that you believe that this quotation given by the Examining Inspector was limited to Russia. Was that your statement?

The Witness: No, it was not.

Inspector Zimmerman: What was your statement?

The Witness: My statement was that it was based on the Russian experience. It applied to Russia and it can apply to any country that has similar historical conditions as Russia, historical and social changes as Russia.

Inspector Zimmerman: And you have stated that America does not have such similar conditions; is that correct?

The Witness: Obviously not.

Inspector Zimmerman: Then you say this has no application to the United States; is that correct?

The Witness: Not necessarily, no. Unless we had a Fascist dictatorship in this country which we have not.

Inspector Zimmerman: Then your statement is—

Mr. Roberts: Which we have not?

The Witness: Which we have not.

Inspector Zimmerman: Then your statement is so long as we do not have a Fascist dictatorship in this country, the passage just quoted to you by the Examining Inspector has no application?

The Witness: It has no application, that's right.

Inspector Zimmerman: And I ask you do you have any corroboration of your statement other than your own statement that you can substantiate that view with?

The Witness: In what way? I have stated my opinion, what more do you want?

Inspector Zimmerman: How do you come to have this knowledge that this has no application to the United States?

The Witness: Because I have already stated and we have introduced documents to prove that Marxism is applied to each country in accordance with the conditions of that country.

Inspector Zimmerman: But we are not talking about the application of Marxism to the conditions of each country.

The Witness: Yes, we are; that is exactly what we are talking about.

Inspector Zimmerman: You are misunderstanding the question. The question is, what does Mr. Stalin intend by that and not what any Marxists or Communists in the United States choose to interpret there? The issue here is what did Mr. Stalin intend by that.

The Witness: I am trying to interpret it as best I can and I have already stated that this is based on the Russian experience and it could only apply in similar circumstances as the Russian experience.

By Mr. Roberts:

Q. Mr. Schneiderman, I believe you stated that the revolutionary overthrow of capitalism would be necessary in the United States only if the United States had a Fascist dictatorship; is that correct? A. Yes.

Q. And in the opinion— A? (Interposing) May I qualify that statement?

Q. Whatever you say. A. Not only the overthrow of Fascism to establish Socialism but I would say that if we had a Fascist dictatorship in the United States, I as well as any other American who believed in democracy would take whatever steps and whatever means necessary to overthrow Fascism to re-establish democracy as it is today.

Q. That is giving me a little more than I asked for. I wish you would just respond to the question. I am not asking trick questions. A. It is very difficult to limit one's self to what you think the answer should be.

Q. I am merely trying to get the answer from you, but please be responsive.

Inspector Zimmerman: Mr. Schneiderman, try to get the point as asked by the inspector and answer it as directly as you can.

The Witness: I am trying to do that.

By Mr. Roberts:

Q. Did the Communist Party ever believe or state that there was a Fascist dictatorship in the United States? A. No, not to my knowledge.

Q. Or that there was Fascism in the United States? A. There are Fascists in the United States who are trying to establish Fascism.

Q. You know what is meant by Fascism, don't you? A. Yes.

Q. Did the Communist Party ever assert that Fascism exists in the United States? A. No, unless the term was used very loosely and incorrectly.

Q. So therefore up to the present, at any rate, there never has been the situation wherein the transition to Socialism would call for any forces and violence; is that right? A. That's right.

Q. Let me call your attention to the following which appears at page 55 of Exhibt 20: "Marx's qualifying phrase about the continent gave the opportunists and mensheviks of all countries a pretext for proclaiming that Marx had thus conceded, and the possibility of the peaceful evolution of bourgeois democracy into a proletarian democracy. At least in certain countries outside the European continent (England, America).

"Marx did in fact concede that possibility and he had good grounds for conceding it in regard to England and America in the '70s of the last century when monopoly capitalism and imperialism did not yet exist and when these countries owing to the special conditions of their development had as yet no developed militarism and bureaucracy.

"That was the situation before the appearance of developed imperialism but later, after a lapse of thirty or forty years when the situation in these countries had radically changed, when imperialism had developed and had embraced all capitalist countries without exception, when militarism and bureaucracy had appeared in England and America, also, when the special conditions for peaceful development in England and the United States had disappeared, then the qualification in regard to these countries necessarily could no longer hold good."

Are you familiar with that passage? A. Yes, I am.

Q. Stalin here does not appear to consider the United States as exempt from the conditions for a proletarian revolution, does he? A. At that time he didn't, no. This was written, I think, some time shortly after the war but it refers to Lenin's opinion which was written during the war.

Q. But this happens to be Stalin's doesn't it? A. Yes, but yesterday you quoted the original passage from Lenin which was written during the first world war.

Q. Do you happen to know when this particular book was first written by Stalin? A. In the '20s.

Q. I call your attention to the note appearing at the beginning which says: "This book contains a series of lectures delivered at the Sverdlov University, Moscow, in the beginning of 1924 shortly after the death of Lenin." Does that refresh your recollection? A. Yes.

Q. So that in the '20s and 1924, Stalin did not consider the United States as being within the exempt class, did he? A. Well, neither Lenin nor Stalin could foresee the transition to Socialism could take new and different forms under new historical circumstances as it did after the second world war.

Q. But as of 1924, at any rate, in Stalin's opinion the United States was not exempt; isn't that correct? A. That's right.

Q. And Stalin, I believe you stated yesterday, is considered as one of the chief theoreticians and interpreters of Lenin? A. Yes.

Q. And this view of Stalin's was circulated by the Communist Party in this book, was it not? A. Yes.

Q. I call your attention to the following language which appears in Exhibit 25 in evidence which is the pamphlet Why Communism by M. J. Olgin: "The capitalist state is a glaring fact. It is flesh and blood of the capitalist system. It stands in the way of the workers progress toward a new, free life.

"Can it be abolished by gradual transformation? Those who say it can are the staunchest supporters of the capitalist robbers and the most active promoters of imperialist wars. Their theory is not harmless indeed. It is a poisonous theory. It is a smoke screen behind which cruel capitalist exploitation is hiding.

"We Communists say that there is one way to abolish the capitalist state and that is to smash it by force. To make Communism possible the workers must take hold of the state machinery of capitalism and destroy it."

Mr. Olgin was a member of the Communist Party of the United States, was he not? A. Yes.

Q. And in making that statement it appears that he was referring to the United States, does it not? A. Possibly, I didn't read it.

Q. But I think you did testify that this pamphlet was circulated by the Communist Party? A. Yes. May I express an opinion on that statement that you just read?

Inspector Zimmerman: If the Examining Inspector desires it.

Mr. Roberts: I have no objection to an opinion for what it may be worth to the Presiding Inspector.

Inspector Zimmerman: You may state it.

The Witness: It sounds to me like melodramatic rhetoric written by a very prolific writer of ours, but that doesn't necessarily represent the views of the Communist Party.

By Mr. Roberts:

Q. Have you any idea of how many copies of this were circulated and distributed by the Communist Party? A. No, I don't.

Q. Will you be surprised to know that it ran into the hundreds of thousands? A. I wouldn't be surprised, I don't know what the figure was.

Q. And if it did not represent the views of the Communist Party, how can you account for the fact that they circulated and distributed hundreds of thousands of this pamphlet? A. We circulated lots of literature that didn't represent the official position of the Party on all questions which can only be expressed by authoritative bodies of the Party, as is stated repeatedly at our Conventions and in our resolutions.

Q. Do you know whether this language was ever disavowed by the Communist Party? A. Yes, in discussions at meetings of our National Committee and Convention, it was made clear that this represents Mr. Olgin's own viewpoint and does not represent the official viewpoint of the Party.

Q. Was a statement like that ever made to the public? A. I don't know.

Q. From your knowledge of the practice of the Communist Party, if this volume contained anything which the Communist Party believed should not be in it, would

it have been eliminated in subsequent editions? A. No, it simply went out of print. It certainly didn't become a classic, like our more official documents did.

Q. I call your attention to the fact that it appears from the flyleaf of this exhibit that the first edition came out in December 1933 and there was a second printing in February 1934, first revised edition March 1934, second printing May 1934, second revised edition May 1935.

With all those printings and re-printings and revisions, would you not say that by the time this particular version came out Mr. Olgin would be speaking the correct doctrine of the Communist Party? A. Subsequently it was dropped from our literature.

Q. When was it dropped from your literature? A. After that printing must have expired, I don't know exactly.

Q. Do you know that as a fact or is that just conjecture on your part? A. I know it because there was no more printings and no more attempt to push that pamphlet.

Q. In other words, after hundreds of thousands of this pamphlet were circulated by the Communist Party, the Communist Party decided that they didn't want to have this out any more and they withdrew it; is that correct? A. I don't know how many thousands were circulated but that is exactly what happened.

Q. And do you know why it was withdrawn? A. Because it did not represent accurately the official position of the Communist Party.

Q. In other words, in 1935 they came to that conclusion; is that correct? A. I don't remember the exact year, but it was subsequent to the printing of this pamphlet.

Q. But from 1933 until May 1935, at any rate, they permitted this pamphlet to be circulated? A. Yes.

Q. And it was after that when they decided that this did not represent their views that they withdrew it? A. Yes.

Q. Would it be permissible inference then to state that during the period of its circulation the Communist Party did not believe that this was a misrepresentation of their views? A. It was a matter for discussion. In this case it was Mr. Olgin's opinion and the matter was discussed and subject to review by various bodies of the Party.

Q. If it was just a matter of discussion, why was it necessary to withdraw it at any time? A. It was not with-

drawn. It was simply not pushed further as a piece of our literature.

Q. I think you just stated that it was withdrawn because it didn't represent the views of the Party? A. I didn't say it was withdrawn in that formal and official sense. I simply stated that its formulations were criticized as not representing accurately our views and subsequent to the last printing there was no more printings made of it.

Q. Now I infer from what you have stated that this was circulated as a basis for discussion? A. Yes, as all our literature is.

Q. And as a basis for discussion it might conceivably be a tenable theory? A. Yes, but there were others who didn't agree with it. I know I didn't. That is, I didn't agree with anybody that represented those views in that way.

Q. There were others who did agree? A. Yes, there were.

Q. Were there many? A. I don't know.

Q. But you personally didn't? A. That's right.

Q. Now there was a period, at any rate, when this was circulated as a possible tenet; is that correct? A. Yes.

Q. And it was withdrawn only when the Communist Party determined that they would have none of it? A. That's right.

Q. Is that so with all the other material which they circulated for theoretical discussion? A. I believe our 1938 Convention and Constitution stated that no documents published by or for the Communist Party are official except its Convention documents, resolutions and so on.

Q. But there was nothing to that effect prior to 1938, was there? A. There may have been in meetings of the National Committee or Convention but that is the one I distinctly recall.

Inspector Zimmerman: Are you correct in your recollection of it being 1938? I believe it was adduced earlier that it was the 1940 convention. Can you recollect which did that?

The Witness: 1938 is the date that the Constitution of the Communist Party was adopted which we considered as the codification of our program and principles.

Inspector Zimmerman: I appreciate that, but I believe it was adduced in the record earlier that at the 1940 Convention such a resolution was entered into but nothing was stated as to it being entered into in 1938.

I am merely trying to ascertain whether you are in error as to the year.

The Witness: It may be that there was no formal resolution at the 1938 Convention but the adoption of the Constitution to our understanding superseded and took the place of all other programmatic documents of the Party.

By Mr. Roberts:

Q. I call your attention to the following which appears in Exhibit 5, the Program of the Communist International. I am going to read from page 36:

"The conquest of power by the proletariat does not mean peacefully 'capturing' the ready-made bourgeois state machinery by means of a parliamentary majority. The bourgeoisie resorts to every means of violence and terror to safeguard and strengthen its predatory property and its political domination.

"Like the feudal nobility of the past the bourgeoisie cannot abandon its historical position to the new class without a desperate and frantic struggle. Hence the violence of the bourgeoisie can be suppressed only by the stern violence of the proletariat.

"The conquest of power by the proletariat is the violent overthrow of bourgeois power, the destruction of the capitalist state apparatus (bourgeois armies, police, bureaucratic hierarchy, the judiciary parliaments, etc.) and substituting in its place new organs of proletariat power to serve primarily as instruments for the suppression of the exploiters."

That was basic Marxist-Leninist doctrine, was it not? A. Yes.

Q. And there is nothing in here to indicate that that did not apply to the United States, did it? A. Yes, in the

same sense that all our Marxist doctrines indicate that it applies only to the countries where the circumstances fit; where bourgeois terror and violence are used.

Q. This Program, I believe, came out in 1928, September 1st? A. Yes.

Q. And therefore if the United States was considered as a bourgeois country where democracy was not functioning properly, then it would be within the ambit of that quotation, would it not? A. Not necessarily. They are speaking about terror and violence where no democracy exists at all.

Q. Is that what they meant by "bourgeois"? A. The term bourgeois has no connotation so far as I can tell except that it represents a certain class in society. But when it speaks about bourgeois terror and violence, it refers to those countries where Fascism existed or czarism or some other dictatorial regime that prevented the full democratic process from functioning.

Q. Didn't the Communist Party refer to terror and violence in the United States? A. Yes, sometimes illegal terror and violence.

Q. And sometimes legal terror and violence? That is what the Communists called legal terror, isn't that so? A. Yes, something that happens in the South today.

Q. Is that the only type of terror that they called legal terror? A. There are other examples. I remember when Communists among others tried to organize trade unions before they were legally recognized. There was legal terror used against them, yes. It was done officially; it was done according to the law.

Workers and trade unionists were outlaws if they tried to organize a union. In some cases they were shot down as they were in front of the Ford plant. Later it became perfectly legal to organize unions.

What the Communists were doing became recognized by law but up until that time it was considered illegal and so the police that broke up picket lines and broke up unemployed demonstrations that prevented people from organizing and striking, they were doing it legally.

That is the way we understand terror and violence.

Q. Can you give me some other examples of what the Communists consider terror and violence in the United

States? A. Yes, lynch law in the South, prevention of the right to vote.

Q. How about deportation proceedings? A. I would certainly consider that a trampling of democracy underfoot.

Q. Isn't that considered an example of the use of violence by the Government? A. Yes, I would consider it a violation of the Constitution of the United States.

Q. I am not speaking about violations of Constitutions. A. You asked me what I consider it. I consider it a violation of the Constitution of the United States.

Inspector Zimmerman: Just a moment. Would you allow the Examining Inspector to finish his question before answering?

The Witness: Yes.

Inspector Zimmerman: I think at this point we will take a five-minute recess.

(A short recess was taken.)

Inspector Zimmerman: Proceed.

By Mr. Roberts:

Q. Mr. Schneiderman, I think yesterday you were shown this copy of The Communist Magazine for July 1934 which contains two articles in evidence as Exhibits 15 and 16, and I believe you then testified that this was circulated by the Communist Party; is that correct? A. Yes.

Q. I want to call your attention to another article in the same issue of The Communist. This article appears at page 616 and the title is The Socialist Party Convention—A Communist Estimate by V. J. Jerome.

Do you know who V. J. Jerome is or was? A. Yes.

Q. Could you tell me what position he held in the Party? A. He is a writer for our publications.

Mrs. King: Off the record.

(Discussion off the record.)

Inspector Zimmerman: Proceed.

By Mr. Roberts:

Q. Did Mr. Jerome occupy an important position in the Communist Party? A. At that time I don't know.

Q. Does he now? A. Yes. He is one of our best writers.

Q. Did you know him back in 1934? A. I dont think so.

Q. Had you ever heard of him? A. I couldnt say when I first heard of him.

Q. I call your attention to the following language which appears in the article I have just referred to at page 630 and I quote:

> "The declaration speaks of the doom of capitalism; but it indicates no revolutionary way out. Instead it states 'if it [capitalism] can be superseded by a majority vote, the Socialist Party will rejoice.'
>
> "Another possibility indicated is 'if the capitalist system should collapse in a general chaos and confusion * * *'
>
> "Both these possibilities are the predictions of misleaders for one who lays claim to the title *Socialist* must know that the end of capitalism will not come through the attainment of a majority vote by the workers (for the capitalists will never yield their power because of democratic principles) nor through the automatic collapse of the present order. The end of capitalism will come through its revolutionary overthrow by the working class in alliance with and leading the toiling masses of city and country.
>
> "It will come through the establishment of the revolutionary dictatorship of the proletariat."

Was that in keeping with the doctrine of the Communist Party as of that time? A. Not necessarily, I wouldn't put it that way: That is Mr. Jerome's opinion.

Q. Did that violate the precepts of the Communist Party of that time? A. No, not in a general way.

Q. Did that— A. (Interposing) Whether it would specifically apply to the United States would depend on whether you believed that the ruling class would submit to a majority vote or not.

Q. What did the Communist Party believe at that time? A. Well, our belief is that, generally speaking, from historical experience they wouldn't.

Inspector Zimmerman: The question was, the belief at that time. Could you answer as of that time? Your answer was in the present tense.

The Witness: All I can say is that evidently from that article Mr. Jerome didn't believe it.

Inspector Zimmerman: But can you state at this time what the position of the Communist Party was with relation to the paragraph quoted by the Examining Inspector?

The Witness: All I can say is the way I would put it.

Inspector Zimmerman: Then you cannot say what the position of the Communist Party was then; is that correct?

The Witness: Well, I don't recall exactly what they said. All I could say is the way I would have put it.

By Mr. Roberts:

Q. Was it customary for the Communist Party to publish in its organ, The Communist, any material which they were against? A. Nothing which fundamentally violated the Marxist principles, no, but whether they okayed every "I" and "T" in there is another matter. Very often articles were later criticized and changed.

Q. Do you know whether this article was ever criticized or changed? A. I don't know.

Mr. Roberts: Mr. Presiding Inspector, I wish to offer this article which appears at page 616 through 638 of the July 1934 issue of The Communist in evidence. I do this because I should prefer to have you read the entire article rather than the quotation I have taken from it.

Mrs. King: I object to the introduction in evidence on the ground that there has been no showing that it is an official document of the Communist Party and I do not believe that the mere fact that it appears in The Communist is sufficient.

Inspector Zimmerman: Objection overruled, the exhibit will be accepted for what it is worth. This article entitled The Socialist Party Convention—A Communist Estimate, appearing in the July 1934 edition of The Communist, is marked in evidence as Exhibit 45..

(Whereupon, the article referred to was marked for identification and received in evidence as Exhibit 45.)

Mrs. King: Off the record.

(Discussion off the record.)

Inspector Zimmerman: Proceed.

By Mr. Roberts:

Q. I should also like to quote to you the concluding paragraph of the article which has just been marked in evidence:

> "Today there is no Left Socialism outside the Communist Party, outside the Party of Lenin—the confluence into which the historic streams of social democracy gather. The Party whose program of action is to lead the American toilers toward the revolutionary way out, the Party which makes the fight for bread, the fight against capitalism, the Party which at its 8th Convention openly and unequivocally advanced as its central slogan *Soviet Power!*—this is the Party that rightfully claims into its ranks the leftward striving rank and file in the Socialist Party. This is the Party that sets itself as the central task the unification of Socialist and Communist workers for winning the majority of the American working class for the revolution for achieving a Soviet America!"

Was this representative of the views of the Communist Party at that time? A. I don't believe so, no, not as I understood them.

Q. Were you present at the 8th Convention? A. What year was that?

Inspector Zimmerman: 1934.

Mr. Roberts: This is dated 1934.

The Witness: Yes, I believe I was.

By Mr. Roberts:

Q. Do you recollect that the Party advanced as its central slogan the slogan "Soviet power?" A. I don't recall that. I would have to see the resolutions to see.

Inspector Zimmerman: Mr. Examining Inspector, the resolutions are in the pamphlet entitled The Way Out.

Mr. Roberts: They are already in evidence. Then there is no need to question you further on that.

By Mr. Roberts:

Q. Incidentally, just what did Soviet power mean as a slogan? A. Well, it applied specifically to the Soviet Union and referred to the kind of power that existed in the Soviet Union, but the term was also used very loosely to apply to any situation in which the workers would come into office or power.

Q. Well, if as used by the Communist Party, for example, of the United States, would it have reference to the United States? A. Not necessarily, because Lenin often pointed out in his writings that Soviets were a peculiar Russian form of the development of Socialism under the dictatorship of the proletariat.

Inspector Zimmerman: Can you show me where in Lenin's or Stalin's writings this appears as a peculiarly Russian phenomenon?

The Witness: Yes, right in the hearings in my case they were introduced.

Inspector Zimmerman: We will stand in recess for five minutes.

(A short recess was taken.)

Inspector Zimmerman: Proceed.

The Witness: In the Supreme Court transcript of my citizenship case there is entered a quotation from Lenin which reads—

Inspector Zimmerman (Interposing): Do you know the book from which that is taken?

The Witness: Yes, Selected Works, Volume 7.

Inspector Zimmerman: Do you have that volume available?

The Witness: I would have to look it up and see.

Mr. Roberts: Mr. Presiding Inspector, I object to the witness reading an excerpt from a volume which he is not prepared to put into evidence. I do not object to his reading this provided that at some later date before this hearing is concluded by your making findings of fact the Respondent will furnish you with that book so that the entire volume will be in evidence instead of merely a quotation which may possibly be out of context.

Inspector Zimmerman: Counsel, can you arrange to submit Volume 7 of The Writings of Lenin to be entered in evidence in this proceeding?

Mrs. King: Before I get to that, Mr. Presiding Inspector, you asked the witness a question. The witness is answering that question and at this time I am not prepared because it means that the witness would have to stay in and there might be some other questions about that volume.

You asked him, where in Lenin can you find this? Now he is showing you where in Lenin you can find it. It seems to me it is directly relevant.

Inspector Zimmerman: Would you be able to obtain a copy of that volume so that I may peruse it and examine this excerpt in its context?

Mrs. King: I would be able to do that provided there is no problem of the witness having to remain available for further cross examination with reference to that volume.

Inspector Zimmerman: It is agreeable to the Examining Inspector that the Volume 7 of Lenin's Works be submitted in evidence by counsel and this witness not be questioned with respect to it further than he is being questioned with relation to the matter now at hand?

I understand that the witness is desirous of returning to the West Coast as soon as possible.

Mrs. King: I would say that if the Government wants it introduced—

Inspector Zimmerman (Interposing): Just a moment. Is that agreeable?

Mr. Roberts: I am willing to have the volume introduced without requiring the witness to return to the hearing from the West Coast. However, I will say this, if there are any statements in that which I might want further examination on, I might communicate with counsel and see whether the witness may be subsequently available.

I don't want to commit myself to accepting in toto what may be in a volume which I have never seen.

Inspector Zimmerman: Is that agreeable to counsel?

Mrs. King: I would prefer in that instance not to have the witness testify with reference to that at all but, at the same time, not to have the witness' failure to testify imply that he cannot find such a quotation, because he was ready to answer the Presiding Inspector's question but was prevented from doing so because of the fact that the Examining Inspector will not allow anything to be read from Lenin without the introduction of the entire volume.

Inspector Zimmerman: Then you are not prepared to submit in evidence that volume of Lenin's Works; is that correct?

Mrs. King: I am prepared and I should prefer the Government to introduce it, but my attitude is that I do not want to subject this witness to the trouble of further examination for the purpose of getting in one quotation.

Inspector Zimmerman: We will let the quotation go then and you may proceed with the next question.

Mrs. King: I want to object to having the quotation waived which was a proper and relevant answer to a question made by the Presiding Inspector.

Inspector Zimmerman: Your objection is noted and overruled. I will be very happy at any time during the pendency of this proceeding if counsel will agree to the submission in evidence of the entire text from which the excerpt is taken to allow it to be entered.

You may proceed with the next question.

Mr. Roberts: Mr. Presiding Inspector, for the sake of the record and in order that anybody who may review this record may pass upon the adequacy of your ruling, I believe it would be advisable to have this quotation in the record in order that a proper decision may be made by higher authority.

In other words, I do not want to prejudice the Respondent or the Government in this connection. I believe this can properly be read into the record without being considered in evidence; perhaps in the nature of an offer of proof.

Inspector Zimmerman: I believe that counsel can put it in her brief and make it available to review. Is that agreeable with counsel?

Mrs. King: I prefer the suggestion of the Examining Inspector that I offer to prove that if allowed to read it, the excerpt would read as follows, and then read it into the record.

Inspector Zimmerman: I have no objection to that procedure if it is agreeable to both the Examining Inspector and counsel. Will the witness please read his quote and it will not be considered with the record.

The Witness: This is from the transcript of the Supreme Court of the United States, Schneiderman versus the United States of America, Volume 1.

Inspector Zimmerman: Off the record.

(Discussion off the record.)

Inspector Zimmerman: Proceed.

The Witness: Lenin's Selected Works, Volume 7, page 145, title, Soviets—Russian Form of Proletarian Dictatorship. "The Soviets are the Russian form of proletarian dictatorship. If a Marxian theoretician writing on the dictatorship of the proletariat had seriously set to work to study the subject (and not merely to repeat the petty bourgeois lamentations over dictatorship as Kautsky does in repeating the menshevik melodies) he would first of all have given a general definition of dictatorship and would then have examined its peculiar national form, the Soviets; he would have given his critique of them as one of the forms of the dictatorship of the proletariat."

Inspector Zimmerman: Mr. Schneiderman, at the original part of this hearing there was entered in evidence the pamphlet The Way Out as Exhibit 12.

Mrs. King: Off the record.

(Discussion off the record.)

Inspector Zimmerman: With the exception of the introduction it was introduced in evidence. On page 45 there appears the following paragraph 25 of the resolutions of the 8th Convention of the Communist Party of the U.S.A., and I quote:

"25. The central task of the Party is to organize and lead the fight against the offensive of the capitalist class, against developing Fascism and the threat of imperialist war, and to develop these struggles on the basis of the fight for the immediate partial demands of the workers into general class battles for the overthrow of capitalist dictatorship and the setting up of a Soviet government."

I also quote to you from page 57 of this pamphlet which is part of the same resolution of the 8th Convention of the Communist Party the following:

"The Communist Party must raise before the toilers in the United States the revolutionary way out of the crisis. All members of the Party must in their day-to-day work, in the fight for the demands of the workers, point out convincingly and insistently that only the destruction of the capitalist system, the establishment of the dictatorship of the proletariat, of the Soviet power, can free the millions of toilers from the bondage and misery of the capitalist system."

What have you to say with respect to the fact that the resolution of the 8th Convention of the Communist Party in the quotations which I have just made referred to setting up the Soviet power or the dictatorship of the proletariat in these United States?

The Witness: I would say that that was not a correct application of Marxism to the American situation. It was a rather mechanical transposi-

tion of a general world analysis to America without regard to the specific situation in the United States, and subsequently we did not make any such analysis because we realized that it was not a correct way to analyze the situation in America from the Marxist viewpoint.

Inspector Zimmerman: You say that this resolution made by the Convention of the Communist Party which in convention is the supreme body; is that correct?

The Witness: Yes.

Inspector Zimmerman: Was in error?

The Witness: Yes.

Inspector Zimmerman: In the use of terms in a resolution which was adopted by the entire membership?

The Witness: Yes, even the Convention can be in error and subsequently was proved so.

Inspector Zimmerman: Then what is in one year considered Party policy may the next year be considered to be in error because of events and thereafter revoked or repealed; is that correct?

The Witness: Yes, or if our understanding of Marxism has developed to the point where we recognize errors of previous and earlier days.

Inspector Zimmerman: But as of that previous and earlier day then that was the official expression of the Communist Party; is that correct?

The Witness: Yes.

Inspector Zimmerman: Then in 1934 when this resolution was entered into it was an accepted term, Soviet power, in these United States; is that correct?

The Witness: Except that it was used very loosely and I understood it to mean that whatever form Socialism would take in America it would take peculiarly American forms.

Inspector Zimmerman: Well, are you prepared to say that your understanding of what the Communist Party stood for in 1934 is better than the printed word of the Convention of the Communist Party?

The Witness: No, but I understood the term Soviet Power as symbolic of a situation where Social-

ism would exist and the only example we had at that time was the Soviet Union which had a Soviet government.

Inspector Zimmerman: Could it be that your understanding of the term is in error and the Party resolution is correct?

The Witness: I think my understanding of the term is verified by the quotation just read from Lenin, that the Soviets are a peculiarly Russian form.

Inspector Zimmerman: But I have just quoted you a resolution by the American Communist Party in its national body in which it said the Soviet power is the way out for these United States. How do you explain that?

The Witness: Well, I am a different person than I was in 1934 and I think my views can have developed and matured since then.

Inspector Zimmerman: Then your view and the Communist Party's view in 1934 may have been what is set forth in this resolution; is that correct?

The Witness: I don't believe that the Communist Party's views meant specifically that the form of Socialism would have to be under the form of Soviet power. As I said, the slogan Soviet power was used more or less symbolically to illustrate a situation where the working class would be in power and establish Socialism, and generally we made clear that we did not expect that Soviet power would be applied to the United States.

Inspector Zimmerman: By "we," do you mean the Communist Party of the United States?

The Witness: Yes.

Inspector Zimmerman: Can you tell me in what one of its resolutions it declared that Soviet power would not be the way out of capitalism in the United States?

The Witness: Our Constitution and all of our programs indicate that we believe that Socialism will come in whatever American form the circumstances will permit.

Inspector Zimmerman: Not barring Soviets?

The Witness: I didn't say that.

Inspector Zimmerman: Well, if the situation called for it; is that correct?

The Witness: I would say, since you are speaking about a hypothetical situation, let's say hypothetically that a situation in this country could resemble the circumstances of Russia under the conditions of 1917, yes; but obviously that is a very far-fetched hypothesis and I don't think that would bring clarity to this issue.

Inspector Zimmerman: Mr. Examining Inspector, you may continue.

By Mr. Roberts:

Q. Mr. Schneiderman, yesterday you referred to Lovestone and his position in the Communist International in 1929, I believe. Do you recall that? A. Yes.

Q. Do you remember having stated that he represented a minority group of the American Communist Party? A. Did I say that?

Q. I believe you did. Well, what was it? A. At one time he represented a majority but when he was expelled he represented a minority.

Q. When he was at that meeting of the Communist International, whom did he represent, the majority or the minority? A. I don't recall. I think probably the majority.

Q. He did represent the majority at that time? A. Yes.

Q. And he had the majority of the Communist Party of the United States at that time as differentiated from a minority in the Party; is that right? A. Yes.

Q. I believe you stated that there was a difference on the question of American exceptionalism; isn't that correct? A. Yes.

Q. And they brought that difference with them to the Communist International? A. It was discussed there.

Q. Do you remember what happened? A. Yes.

Q. Isn't it a fact that Mr. Stalin made a speech on the question before the American Commission of the Presidium of the Executive Committee of the Communist International? A. Yes, among many other speakers including Americans.

Q. And didn't Mr. Stalin also make a speech in the Presidium of the Executive Committee of the Communist International on the American question? A. Yes.

Q. And was it not subsequent to that speech of Mr. Stalin's that the Communist International reversed the

majority of the American Communist Party? A. No, they didn't.

Q. On that question? A. No, they didn't.

Q. I show you a pamphlet entitled Stalin's Speeches on the American Communist Party published by the Central Committee, Communist Party U.S.A., and ask you if you have ever seen that? A. Yes, I have seen it.

Q. Was that issued by the Communist Party of the United States? A. It was issued by the Workers Library Publishers but we used it.

Q. It states here that it was published by the Central Committee, Communist Party U.S.A. A. Yes.

Q. And their quotation of Stalin's speech on the occasions in question would be a correct quotation, would it not? A. Yes.

Q. Do you remember any other incident in which there was a disagreement between the majority and the minority before the Communist International? A. Offhand, I don't recall.

Mr. Roberts: I offer this pamphlet in evidence.

Mrs. King: I object to it as incompetent, irrelevant and immaterial, having no bearing on the issues in this case.

Inspector Zimmerman: The objection is overruled.

Mr. Roberts: Mr. Presiding Inspector, in offering this pamphlet, I wish that you would deem the original marked in evidence and would accept at a later date a photostatic copy because the original is scarce.

May I also suggest that with respect to Exhibit 45 which is an article in the July 1934 issue of The Communist, you accept in evidence a photostatic copy of the article rather than the whole Communist Magazine.

Mrs. King: No objection.

Inspector Zimmerman: The photostatic copy of Exhibit 45 will be accepted in evidence in lieu of the original of the article. The photostatic copy of the pamphlet entitled Stalin's Speeches on the American Communist Party in May 1929 will be marked in evidence as Exhibit 46.

(Whereupon, the photostatic copy of pamphlet referred to was marked for identification and received in evidence as Exhibit 46.)

By Mr. Roberts:

Q. I call your attention to the following language which appears in this pamphlet which has just been received in evidence and this is evidently Mr. Stalin speaking: "Another example, I refer to the case of Comrade Pepper. You are all more or less acquainted with that case. Twice the Comintern demanded Comrade Pepper's return to Moscow. The Central Committee of the American Communist Party resisted and in fact ignored a number of decisions of the Executive Committee of the Communist International regarding Pepper.

"Thereby the majority of the American Communist Party demonstrated its fellowship with Pepper whose opportunist vacillations everyone knows. Finally a delegation from the Executive Committee of the Communist International sent to the 6th Congress of the American Communist Party advances again in the name of the Executive Committee of the Communist International, the immediate recall of Comrade Pepper.

"The majority under the leadership of Lovestone and Gitlow again resists this demand and does not find it necessary to carry out the decision of the E.C.C.I."

Do you recall that instance? A. Only as I read it in Stalin's speech. I am not familiar with the incident.

Q. You were in the Communist Party at that time, were you not? A. Yes, I was.

Q. Are you aware of the fact that after the majority in the Central Committee of the American Communist Party had defied the Communist International's mandate that Pepper be returned, Messrs. Lovestone and Gitlow were summoned to the Communist International? A. Only in so far as it is stated there.

Q. And do you know that both Messrs. Lovestone and Gitlow shortly thereafter were disciplined because of their recalcitrance in this regard?

Mrs. King: I object to that question as incompetent, irrelevant and immaterial.

Inspector Zimmerman: Objection overruled.

The Witness: The only discipline of them had nothing to do with whether they obeyed or didn't obey this decision. The discipline of Lovestone was a discipline based on the criticism of their political

line which was deemed to be fundamentally different than the line of the Communist International and fundamentally opposed to the principles of Marxism.

The only discipline that I know of that the Communist International exerted over Lovestone was to remove him from the international bodies of the Communist International. It was the American Communist Party that expelled him when a majority of the delegates saw that his views were contrary to the views of Marxism, particularly in relation to the economic situation and the oncoming economic crisis.

His views on American exceptionalism were repudiated because life itself in America proved that the Communist International's views on this question were correct, that Lovestone was wrong, and that America was heading toward an economic crisis and that Lovestone's views were simply not Marxism.

By Mr. Roberts:

Q. But at the time that Lovestone adduced the views, he did represent the majority in the American Communist Party, did he not? A. Yes. He happened to be able at that time to mislead the majority but not for long.

Q. But he did represent the majority? A. Yes.

Q. And when he attempted to persist in representing the majority views before the Communist International, those majority views resulted in the majority's views becoming the views of the Communist Party; isn't that correct? A. No, that is not correct. The Communist International had no jurisdiction over his expulsion from the American Communist Party. That act was taken by the leadership of the American Communist Party itself.

Q. I call your attention to the following language which appears at page 19 of this speech in which Mr. Stalin states: "Comrades Lovestone and Bittelman must be summoned and placed at the disposal of the Comintern in order that the members of the American Communist Party should at last understand that the Comintern intends to fight factionalism in all seriousness."

Wouldn't you say from that that Messrs. Lovestone and Bittelman were called before the Communist International for discipline as a result of their deviations?

Mrs. King: I object to that question as incompetent, irrelevant and immaterial, and to this whole line of questioning as having absolutely nothing to do with the issues in this case.

Inspector Zimmerman: Objection overruled.

The Witness: As far as I know the only way that the Communist International can summon anybody is for a discussion and that is all I think that happened in this case. I have no personal knowledge of it though.

By Mr. Roberts:

Q. Is that what was meant by the statement, "Placed at the disposal of the Comintern"? A. Yes.

Q. Why was it necessary to say, "Placed at the disposal of the Comintern," when they were to be summoned? A. I don't know, I didn't say it.

Q. But you will agree that the two phrases have different connotations? A. Yes, obviously, it depends on the point of view.

Mr. Roberts: This is already in evidence, I believe; is that right?

Inspector Zimmerman: Yes, that is Exhibit 46.

By Mr. Roberts:

Q. Mr. Schneiderman, have you heard the expression about converting imperialist war into civil war? A. Yes.

Q. Did the phrase "imperialist war" have a specific meaning as used by the Communist Party? A. Yes, it referred generally to an unjust war for profits, for markets, for purposes of advancing imperialism.

Q. It would not refer to an ideological struggle, would it? A. No, although the ideological struggle could be one aspect of it.

Q. Do you recall the situation after the inception of World War II in September 1939 when the adversaries were Germany on the one side and Great Britain and France and the other countries on the other? A. Yes.

Q. And before the attack upon the Soviet Union, was it not the position of the Communist Party at that time that that was an imperialist war? A. It was also called a "phoney war," if you remember, because nobody really believed that America and Britain—

Inspector Zimmerman (Interposing): Would you answer the question, Mr. Schneiderman? Can you answer it yes or no?

The Witness: May I answer it in my own way?

Inspector Zimmerman: I would like for you to answer it yes or no and then you may explain.

The Witness: All right. Yes, but it was also called a "phoney war" because it was obvious that neither Britain nor France had the slightest intention to carry on a war against Germany because the same policy of appeasement of Fascism existed after war was declared as for the first period of that war.

It was not until the Soviet Union was forced into the war that it began to take on the character of a real war for the destruction of Fascism. And that is a matter of fact in history.

That is why it was known as a "phoney war" not only by the Communists but by many other people, and that is why we called it an imperialist war, because we believed from all previous developments that all Britain and France were interested in was to achieve another agreement with Hitler to carry on a war against the Soviet Union and let Fascism flourish in Europe and all over the world.

By Mr. Roberts:

Q. Do you recall the fact that France fell in 1940, I believe it was May 1940? A. Yes.

Q. Was it still regarded as a "phoney war" after that? A. I do know that the French Communist Party was the only political party in France that called for the defense of Paris against the German invaders.

Q. I am speaking about the attitude of the Communist Party toward the war. I am trying to find out what they considered an imperialist war.

Was that considered an imperialist war during, for example, the Communist election campaign in 1940? A. Yes.

Q. It was stated so in their election platform, was it not? A. Yes, it was.

Q. And, in fact, the United States' program of considering itself the "Arsenal of Democracy" was opposed by the Communist Party at that time, was it not? A. Yes, but I would like to explain further what our position was. We took the position that in the main this was an imperialist war. We also believed, however, that there were certain elements in this war of a war of liberation against Fascism, elements which in the main were subordinate to the imperialist phase of the war because of the Munich appeasement policy which still existed, but that in many countries it did take on, even in that period, the beginning of a stage of struggle for liberation of that particular country against Fascism.

This was true in the invasion of Yugoslavia and of Greece. It was true even at a certain stage in the invasion of France where the French Communist Party was the only party that called for the defense of Paris and where Mr. Bullitt turned over Paris to the Germans because he told the French government that the Communists wanted to defend Paris.

Q. Getting back to the question I asked you, was that war considered an imperialist war in November of 1940? A. Yes, with the qualifications I have mentioned.

Q. And it was considered an imperialist war up to the time that the entrance of Soviet Russia into the war altered it in the opinion of the Communist Party; is that correct? A. No, it was not as abrupt as all that. As I stated there were certain elements of a war of liberation which already began to appear more prominently during the invasion of Yugoslavia and Greece, but that only when the Soviet Union was invaded was the perspective of the possibility of turning this war into a real anti-Fascist war apparent.

That is what the decisive force was that changed this war into an anti-Fascist war. Up to that time nobody was fighting Fascism even though they were formally at war with Hitler.

Q. You mean then that it was only a war against Fascism which was a non-imperialist war? A. No, a war for independence, national independence, to defend the sovereignty of a country, to overthrow imperialist rule over a colony such as in the American Revolutionary War; these are all just wars which are not imperialist wars.

Q. What was the position of the Communist Party of the United States with respect to their conduct in a time of imperialist war? A. Well, the best way I can answer that—

Inspector Zimmerman (Interposing): Would the Examining Inspector limit it to the period of Respondent's membership?

Mr. Roberts: Yes. I have assumed, of course, that you are talking only about what you know in the Communist Party. You can restrict it to the period of Respondent's membership betwen the years of 1925 and 1940. I believe that is the period.

Inspector Zimmerman: 1939.

By Mr. Roberts:

Q. Did the Communist Party of the United States have any stand as to what should be done in the event of imperialist war? A. Yes, to express and to organize as much political opposition to that kind of a war as possible, to bring it to a speedier conclusion and to defeat the imperialist forces that were responsible for the war as soon as possible.

Q. Were any mechanics set up or contemplated for action on the part of the Communist Party in the bent of imperialist war? A. No. As a matter of fact, during, the first phase of the war in 1939 and 1940, outside of expressing our political opposition to the war and trying to educate the American people on that, we took no further action.

In fact, we advised our members to register for the draft and to participate in whatever way was required of them while, at the same time, expressing our political opposition and opinions on this question.

Q. I call your attention to the following which appears in Exhibit 25 in evidence, being the pamphlet entitled Why Communism by Olgin, and I quote from page 43: "If this fight has been carried on with sufficient determination the ground is prepared for action when war comes. The workers do not realize that it is in their power to postpone war. It is.

"Workers in ammunition plants, go on strike! Shut down your plants! Prevent governmental strike breakers

from resuming work! Railroad men, refuse to handle war materials or to transport troops! Keep guard over your railroad yards and depots lest transportation facilities be used by governmental agents.

"Marine workers, do not load either men or ammunition! Truck drivers, refuse to assist in war work! Workers of other industries, help the strikers. Farmers, refuse to give your food stuffs and raw materials to be used for the slaughter!

"If the workers rise in this way against war, the capitalists with their armed forces will try to break the deadlock. There will be attacks on strikers. The workers will have to offer resistance. We Communists do not close our eyes to the fact that this means *civil war*.

"But when the masses are organized that fight in great numbers under revolutionary leadership the victory is assured. Part of the army is certain to waver and to join the people. There may be victims but their number cannot be compared to the losses in life and limb that the workers would suffer in the imperialist war.

"Victory in the civil war spells the doom of the capitalist state.

"We Communists do not say to the workers that they have to begin the civil war today or tomorrow. We say that the civil war is the inevitable outcome of long and arduous struggles against the capitalists and their state and that these struggles must be made the every day practice of the working class."

Does that represent or did that represent the Communist Party view as to what should be done in the event of war? A. No, that was the individual opinion of this writer. The best proof of that is that the first situation in which the Communist Party operated in an imperialist war is that we did none of these things.

Q. Although when the war was in the making, you did—when I say "you", I mean the Communist Party—advocate that we should not arm the Allies; is that not correct? A. I don't get your question.

Q. I will withdraw it.

Inspector Zimmerman: We will now take a short recess.

(A short recess was taken.)

Inspector Zimmerman: Proceed.

By Mr. Roberts:

Q. Mr. Schneiderman, I call your attention to the following language which appears in Exhibit 27 in evidence at page 13: "Although convinced that war is inevitable under the rule of the bourgeoisie, the Communists in the interest of the masses of the workers and of all the toilers who bear the brunt of the sacrifice entailed by war wage an insistent fight against imperialist war and strive to prevent imperialist war by proletarian revolution. They strive to rally the masses around their standard in this struggle and if unable to prevent the outbreak of war they strive to transform it into civil war for the overthrow of the bourgeoisie."

Now in view of the fact that this is a resolution of the 6th World Congress of the Communist International, wasn't this part of the program of the Communist Party of the United States? A. No. The program of the Communist Party or rather the Communist International, as I have already indicated, is the generalized world experience of the working class and its views there are generalized views on the world situation as a whole.

Q. Did you ever hear sentiments such as I have just quoted discussed in the Communist Party of the United States? A. It was discussed as an experience during the first world war in Russia, in other European countries where similar autocracies existed, and the possibility of using such tactics in countries where similar circumstances would exist and specifically in countries like Germany where a Fascist dictatorship existed.

As a matter of fact, it was the policy of the Communists in Germany, those that were left and were still able to fight, that if they would have the opportunity, if they would have been able to win over the people of Germany, they would have certainly fought to overthrow Hitler and waged civil war against Hitler during the course of the war.

But it is under those circumstances that this slogan was understood.

Q. Was it never understood with respect to possible conditions involving the United States? A. I certainly don't think so.

Q. You never heard it mentioned in any way? A. Unless unfortunately this country should ever get into the state of the Hitler dictatorship.

Inspector Zimmerman: Off the record.

(Discussion off the record.)

Inspector Zimmerman: Proceed.

By Mr. Roberts:

Q. I call your attention to the following which appears at page 84 of Exhibit 5 which is in evidence and is the Program of the Communist International: "The Communist International must devote itself especially to systemic preparation for the struggle against the danger of imperialist wars. Ruthless exposure of social chauvinism, of social imperialism and of pacifist phrase mongering intended to camouflage the imperialist plans of the bourgeoisie; propaganda in favor of the principal slogans of the Communist International; every-day organizational work in connection with this in the course of which work legal methods must unfailingly be combined with illegal methods; organized work in the army and navy—such must be the activity of the Communist Parties in this connection.

"The fundamental slogans of the Communist International in this connection must be the following: Convert imperialist war into civil war; defeat 'your own' imperialist government; defend the U. S. S. R. and the colonies by every possible means in the event of imperialist war against them. It is the bounden duty of all sections of the Communist International and of everyone of its members to cary on propaganda for these slogans, to expose the 'Socialistic' sophisms and the 'Socialist' camouflage of the League of Nations and constantly to keep to the front the experience of the war of 1914-1918."

Was the principle there enunciated of converting imperialist war into civil war one of the principles which was on the program of the Communist International?
A. Yes.

Q. And the reference here to all Communist Parties and their activities—

Inspector Zimmerman (Interposing): All Communist sections.

Mr. Roberts: No, the reference here is to "such must be the activity of the Communist Parties in this connection."

By Mr. Roberts:

Q. When they referred to Communist Parties they did not exempt any, did they? A. Well, this is a sort of an exhortation but it doesn't necessarily mean that all Communist Parties felt obliged and felt that the situation in their country required that those slogans should just be mechanically copied.

Q. But in the event that the Communist Party felt that they were facing an imperialist war, then it was their duty, was it not, and it was their program to pursue these slogans and activities? A. Not necessarily, unless they thought that the situation required it. I might say that the exhortation which makes an appeal to all Communist Parties in most of the countries of Europe in the late '20s and even more in the '30s, the Communist Parties did operate under conditions of extreme dictatorship and terror and were unable to function under democratic processes, and therefore the application of such tactics would be much more similar to the experiences in Russia under czarism.

Q. I show you a pamphlet entitled Resolutions, 7th Congress of the Communist International published by Workers Library Publishers, New York, November 1935. Have you seen this before? A. I have seen the Resolutions of the 7th World Congress of the Communist International but I am not sure whether I saw this particular edition. It doesn't appear to have quite the same material in it as the one I saw. But the resolutions are there.

I am not sure that all the resolutions are there but I see there are some that are marked "Resolutions".

Q. I show you the resolution on the report of George E. Dimitroff adopted August 20, 1935 by the 7th Congress of the Communist International which begins at page 21 of this pamphlet and runs through page 48. Do you recall that resolution? A. The Offensive of Fascism and the Tasks of the Communist International in the Fight for the Unity of the Working Class Against Fascism, yes, I distinctly remember this resolution because this was more or less a guiding program for all Communists and anti-

Fascists, throughout the world against Hitlerism from 1935 on.

Q. And this was a resolution from the Communist International; is that correct? A. Yes.

Mr. Roberts: I offer this in evidence and I ask that it be deemed received and that a photostatic copy be actually placed in evidence.

Mrs. King: Off the record.

(Discussion off the record.)

Inspector Zimmerman: On the record, proceed.

Mrs. King: We object to it.

Inspector Zimmerman: On what ground?

Mrs. King: It has no relation to the Communist Party of the U. S. A.

Inspector Zimmerman: Objection overruled. This document entitled Resolutions of the 7th Congress of the Communist International adopted August 1935 is marked in evidence as Exhibit 47. That is, the photostatic copy of it will be so marked.

(Whereupon, the document referred to was marked for identification and received in evidence as Exhibit 47.)

Mrs. King: I have no objection to the photostatic copy.

By Mr. Roberts:

Q. Mr. Schneiderman, I call your attention to the following language which appears at page 47 of this pamphlet:

"The Communists while fighting the illusion that war can be eliminated while the capitalist system still exists exert and will exert every effort to prevent war. Should a new imperialist world war break out despite all efforts of the working class to prevent it, the Communists will strive to lead the opponents of war, organize in the struggle for peace, in the struggle for the transformation of the imperialist war into civil war against the Fascist instigators of war, against the bourgeoisie for the overthrow of capitalism."

That was embodied in this resolution of the 7th World Congress; is that correct? A. Is that the one that I just identified?

Q. Yes. A. Yes.

Q. Do you know whether this pamphlet— A. (Interposing) This is not the same resolution that I identified.

Q. I am sorry, I thought it was. A. I identified the resolution, The Offensive of Fascism and the Tasks of the Communist International, etc. You are reading another resolution.

Q. You are right.

Mrs. King: I make a further objection that the thing has never been identified with a knowledge of the character of the Communist International resolutions.

Inspector Zimmerman: Mr. Schneiderman, can you identify the additional resolutions appearing in this pamphlet?

The Witness: I assume that this is a resolution adopted there. I don't recall it, particularly, so I wouldn't say definitely.

Inspector Zimmerman: You have no reason to doubt its authenticity; is that correct?

The Witness: If I am asked to definitely identify it—

Inspector Zimmerman (Interposing): You have no reason to doubt its authenticity?

The Witness: It appears to be one of the resolutions.

Inspector Zimmerman: Objection overruled.

By Mr. Roberts:

Q. Have you ever seen this pamphlet? A. I don't recall that particular pamphlet. I think I saw the 7th Congress material in some other form, a book or some other edition of the pamphlet.

Q. Do you know whether the Resolutions of the Congress of the Communist International were circulated among the members of the Communist Party? A. At least the main resolution was, the one that I referred to, the one for defense against Fascism. I don't recall whether the others were or not.

Q. Wasn't the Communist Party of the United States interested in ascertaining the resolutions of the Communist International? A. Yes, I assume they were. But the main

resolution is the only one I am familiar enough with to speak about.

Q. And this resolution on the report of M. Ercoli adopted August 20, 1935, have you ever read that before? A. I don't recall it, I probably have.

Q. Do you want to take a look at it? A. Yes. Yes, it appears to be a resolution adopted by the Congress.

Q. Now the quotation that I read from the resolution on the report of M. Ercoli and which I mistakenly attributed to the resolution on the report of Mr. Dimitroff and which referred to the conversion of imperialist war into a war for the overthrow of the bourgeoisie, do you recall any sentiment like that? A. Yes.

Q. Is there anything here to indicate that that is not applicable or would not be applicable to the United States Communist Party? A. Yes, and I would like to explain that point because I think that here is a very good example of the danger of taking a sentence out of context and trying to prove your point as you have done so many times.

Now this 7th World Congress of the Communist International in 1935 after Hitler came into power was concerned primarily with the mobilization of all anti-Fascist forces throughout the world against Hitler and against a war which Hitler was organizing, not only against the Soviet Union, but against all democratic forces.

Every thought was directed by this Communist International to the program of doing everything we could to mobilize the world against Hitler. The only war we were thinking of was a war that Hitler would launch; and when we speak here about turning an imperialist war into civil war, it could mean only one thing and that is a war to overthrow Hitler, a war to defeat Hitler, in a war against Hitler Fascism.

Now you may not find the countries specified here, but the whole spirit and meaning of every report, every speech, every resolution, everything about this Congress, is well known throughout the world to have been inspired by this single task of defeating and smashing Fascism.

Q. Mr. Schneiderman, I call your attention to the following language which appears in Exhibit 28 in evidence and which is an article in the July 1929 issue of The Communist Magazine. I am quoting from the bottom of page 357.

Mrs. King: Off the record.

(Discussion off the record.)

Inspector Zimmerman: Proceed.

By Mr. Roberts:

Q. H. M. Wicks is the author. "When Communists urge strikes and crippling of industry in time of war we are accused of trying to bring about the defeat of 'own own' government. To that charge we plead guilty. That is precisely our aim. A government engaged in warfare is weaker than at other times in spite of the fact that its savage repressions make it appear stronger to the superficial observer.

"At such a moment an organized drive to stop the production of war supplies, to cripple the transportation system, may result in creating such difficulties that the imperialist forces may be defeated.

"But it is not sufficient in our drive against imperialist war merely to concentrate upon the war industries. We must be able to reach the masses and the armed forces of the nation with revolutionary agitation and propaganda to cause defections and mutiny in the ranks.

"We do not indulge in the social democratic twaddle about disarmament. We will not tell the soldiers in the army to throw away their guns and run home. We tell them to hold their guns in their hands and use them against their own capitalist oppressors. When faced with an imperialist war as an accomplished fact we must be able to popularize definite revolutionary slogans among the armed forces.

"In case of a war between imperialist nations we raise the slogan of fraternization of the soldiers of the opposing army, refusal to obey commands of officers, mutinies and other forms of disruptive work. In case of a war against the Soviet Union our main slogan will be different. We will then urge the soldiers in the imperialist armies to desert the army and with their guns and with as much ammunition as they can get go over to the side of the Red Army against the imperialist forces.

"While the capitalists prepare for another imperialist war we prepare to utilize the difficulties for capitalism aris-

ing out of such a war in order to initiate the next stage of the world revolution.

"We realize that such a conflict requires careful preparation under the leadership of a determined Bolshevik Party. Turning an imperialist war between nations into a civil war against capitalism is not a simple matter. It is not a game for dilettantes to play. It requires the most highly developed revolutionary strategy and an ability to estimate the relative forces involved in this struggle as well as the precise moment for the launching of the insurrection.

"When a revolutionary situation is developing as a result of war or from any other cause the party of the proletariat must lead a direct attack against the capitalist state. The slogans put forth must be of such a nature as to guide the movement in its development which will take the form at first of mass strikes and armed demonstrations. In that stage there arises the question of arming of the working class and disarming the capitalist class.

"Finally the highest form of struggle is reached wherein it culminates in the general strike and a merging of large sections of the military forces and the workers for armed insurrection against the capitalist state power."

Have you ever read that before or seen it? A. I don't believe so.

Q. But this was contained in The Communist Magazine which was circulated by the Communist Party; is that right? A. Yes, so it seems, but I might say that I never took much stock in what this individual wrote. He was subsequently expelled from the Communist Party. He was a sort of an adventurer who was expelled under rather shady circumstances; and as I recall later, I believe, he turned out to be an employers' agent.

So I certainly wouldn't use him, if I were you, as an authoritative spokesman of the Communist Party.

Q. We are not using him. We are using what the Communist Party circulated. A. You had better use better authorized spokesmen then.

Q. If this did not represent or if this were opposed or in any way inconsistent with the fundamentals of the Communist Party, would they have circulated it in their official publication? A. Yes, they may have. As obviously as is shown by the fact that this was published, but the fact that

he was later expelled shows that in some form or other he was shown up. I don't remember the details.

Q. I am speaking about the time that this was published. At that time there was— A. (Interposing.) They were published as his views.

Q. I thought you stated before that the Communist Party would not publish in The Communist Magazine anything which was diametrically opposed to their views? A. That's right.

Q. They would publish—

Inspector Zimmerman: (Interposing.) Just a moment, let him finish the question or rather the answer.

Mr. Roberts: Go ahead.

The Witness: There is nothing wrong with these statements if they are considered as a generalized world experience, but if these statements are to be attributed as applicable to the United States, they obviously are not in harmony with the views of the Communist Party.

So they can be in general agreement with the Marxian theory and principles without necessarily being applicable to the United States.

By Mr. Roberts:

Q. I call your attention to the fact that this article refers to the situation in the United States. You may, if you wish, read the whole thing because I am not going to quote it. A. You read enough for me to get the idea.

Q. For example, at the very preceding paragraph, the two paragraphs preceding what I read, it starts out: "At the present moment in the United States we must concentrate on the organization of the unorganized in the war industries, the workers in the steel mill, in the motor industry, etc.," and then it winds up into what I quoted from.

So this obviously has reference to the United States. A. But I would never accept anything written by Mr. Wicks as representing the views of the Communist Party.

Q. But they did circulate his views in their official magazine? A. Yes, but not for long. I doubt if you will find anything else by Mr. Wicks after that for very long. Probably one of the reasons is writing articles like that.

Q. Which they published? A. Yes, which shows that views can be published for a discussion which are not necessarily the official views of the Communist Party.

Q. Did the Communist Party of the United States believe during the period of the '30s that the capitalist nations were preparing for an offensive against the Soviet Union? A. In the '30s?

Q. Yes. A. Yes.

Q. Such an offensive was considered by the Communist Party to be an imperialist offensive; isn't that correct? A. That doesn't tell the whole story. Specifically it was an offensive by Fascism aided and abetted by the non-Fascist capitalist nations for war against the Soviet Union, but the main danger appeared to be coming from the Fascist countries such as Germany after Hitler came into power and so on.

Q. How about the United States? Was the United States included as among the possible protagonists? A. Not as the main danger, no. Our criticism of American policy was in aiding and abetting Hitler, in arming him, in preparing him for war, in encouraging him to fight the Soviet Union, in pouring money in there and encouraging and supporting Britain and France in their policy of building up Hitler.

That was our main criticism in opposition to the policies of American capitalism at that time.

Q. In the event of the culmination of those policies in a war against the Soviet Union, what was the doctfine of the Communist Party with respect to the part to be played by the members of the Communist Party?

Inspector Zimmerman: That is the Communist Party in the United States?

Mr. Roberts: That's right, the Communist Party of the United States.

The Witness: A war against the Soviet Union by whom?

By Mr. Roberts:

Q. By the United States. A. We didn't conceive of a possibility of a war against the Soviet Union by the United States because we never believed that the American people would fall for this pro-Fascist propaganda of joining a war against the Soviet Union. Our main concern in those years

was to stop a war that Fascism was organizing not only against the Soviet Union but against all other democratic nations of the world; and as we said so many times in our writings and our speeches, they are full of that view of the war danger during the whole period of the '30s and, particularly since Hitler came into power.

So everything we said about war at that time was in relation to trying to stop and prevent a war launched by Fascist Germany, but we had enough confidence in the American people to believe that America in spite of the policies of its Government and of Wall Street would not allow itself to be involved in a war on the side of Fascism against the Soviet Union.

Q. You mean that throughout the publications of the Communist Party there was no mention made of the danger of the United States going to war with Russia? A. Possibly, yes, but that was not the main danger in our opinion. The main danger was Fascism.

Q. Well, forgetting about the main danger, I am merely addressing myself to the possibility of an imperialist war against the Soviet Union. That was within the contemplation of the Communist Party, was it not? A. Yes, possibly.

Q. And in the event of such a war, did they not prepare or lay down a program of action? A. No, we prepared no such program of action as you indicate. We were prepared to carry on a political struggle against any imperialist war whether directed against France or England or China or the Soviet Union or Mexico or any other country.

Q. And this phrase about converting imperialist war into civil war against the bourgeoisie for achieving the Socialist revolution, you say that they didn't contemplate any applicability of that to the United States? A. This slogan is one of the classic slogans of Marxism-Leninism which we have to understand in the same light as you understand some of the classic phrases taken from the Communist Manifesto. That is, to understand the time and place in which it was written and the circumstances around which it was written.

It came into being in connection with the classical tactic used by the Russian bolsheviks to overthrow czarism; and while it contemplated using the tactics under conditions that will be similar to that, it did not mean that Communists all over the world were obliged or thought that Marxism required them to use similar tactics in countries where

democratic processes, the possibility of a political struggle in a democratic way of carrying on the fight against war, could be realized.

Q. Just by way of example, isn't it the view of the Communist Party as of now that the United States is embarking on an imperialist venture? A. Yes, very much so.

Q. I have read that in the papers. A. And the Communists are not the only ones that believe that.

Q. But if the present conduct of our foreign relations should result in a war, that would be called an imperialist war, I take it? A. Yes, because in our opinion such a war could only take place because Wall Street is attempting to impose its will on the world.

Q. And in the event that we did become engaged in such a war which would be an imperialist war in the view of the Communist Party, what does the Communist Party say with respect to that? A. We would express our political opposition to it. We would attempt to mobilize and educate the people to see the imperialist character of the war and to fight to get the people to bring such a war to as quick a conclusion as possible and to defeat politically and to put into power democratic forces, and defeat the imperialists or imperialist forces responsible for the war.

Q. When you say "defeat", are you referring now to this civil war which was referred to before? A. I am referring to a democratic government for peace into office.

Q. Suppose that imperialist war, as you denominate it—

Inspector Zimmerman (Interposing): May I remind the Examining Inspector that we are most interested in the period of the Respondent's membership.

Mr. Roberts: That is true, and I pointed out that this is just a hypothesis. However, I am trying to get the views—

Inspector Zimmerman (Interposing): I suggest that a hypothetical question be placed with respect to the witness' knowledge of the Party stand during that period, if possible.

Mr. Roberts: Well, the witness has stated that during that period—

Inspector Zimmerman (Interposing): I am not desiring to discuss it with you. I am merely suggesting that if possible any hypothetical question

should be placed in the period in issue otherwise you are going somewhat beyond the scope of the hearing.

On the other hand, if you desire to proceed a bit longer and there is no objection by counsel, you may do so.

Mrs. King: I am going to object.

Mr. Roberts: I will accept your suggestion.

By Mr. Roberts:

Q. Now during the period of 1925 to 1939, didn't the Communist Party contemplate the United States would be doing what it is doing today? A. Not in exactly the same form, no.

Q. I am not speaking about the form but I am speaking about the fact that they might have contemplated that the United States would embark upon a career which they would call an imperialist career. Wasn't that envisaged? A. Yes, as a matter of fact, they did, although not against the Soviet Union in that case. I don't remember the exact years but I remember we had some very imperialistic ventures in Nicaragua and China and other countries like that which were obviously interventions by Wall Street in these colonial countries and we fought that.

We fought that at the time and we will always fight those kinds of imperialist ventures.

Inspector Zimmerman: Was it the position of the Communist Party during those years that when the United States was involved in an imperialist war the Communist Party in the United States should attempt to convert that imperialist war into civil war in these United States?

The Witness: No.

By Mr. Roberts:

Q. Even though that imperialist war might be against the Soviet Union? A. That is correct.

Q. I show you a pamphlet entitled, A Letter to American Workers published by International Publishers, copyrighted 1934, and this is a second printing, 1935. Have you ever seen that before? A. Yes, I am quite familiar with it because this pamphlet deals with some revolutions which aren't Russian revolutions but American revolutions.

Q. Was this circulated and distributed by the Communist Party? A. Yes.

Q. As a matter of fact, from your statement of your familiarity with it, did you use it in teaching? A. Yes. As a matter of fact, Lenin's pamphlet on this helped us Communists to fully understand and appreciate the democratic and revolutionary traditions of America. It encouraged us to read the writings of Jefferson and Lincoln on those questions and a great deal of our thinking today is influenced as much by Jefferson and Lincoln on the question of American revolutionary traditions as by Marx and Lenin.

Q. Then would you say that this represents the thinking of the Communist Party of the United States during the period when this was circulated? A. No, it doesn't represent the thinking of the Communist Party of the United States. It represents the thinking of Lenin, but I said that the letter there contributed greatly to our understanding of American revolutionary traditions.

Q. Was this considered— A. (Interposing.) This was a letter from Lenin to American workers. It didn't represent our thinking. It represented his thinking in addressing American workers.

Q. Was his thinking followed or adopted by the Communists in the United States? A. I don't recall hat they were adopted. I said that my impression from this letter, what I got out of this letter, was a better appreciation of American revolutionary and democratic traditions.

Q. And were those American democratic and revolutionary traditions adopted by the Communist Party? A. What do you mean adopted? We were inspired by them. They influenced our thinking but we didn't adopt them. I don't know what you mean by adopt.

Q. As long as you profess to be the possessors of the democratic and revolutionary traditions contained in this pamphlet— A. (Interposing.) We are not the sole possessors, no, but we are trying our best to carry out the best American democratic traditions.

Mr. Roberts: I offer this in evidence.

Mrs. King: No objection.

Inspector Zimmerman: This pamphlet entitled, A Letter to American Workers by Lenin, printed in 1934 is marked in evidence as Exhiibt 48.

(Whereupon, the pamphlet referred to was marked for identification and received in evidence as Exhibit 48.)

Mr. Roberts: Mr. Presiding Inspector, may I request that in the event that the matter turns out that that is not otherwise obtainable that you receive a photostat and you release the original?

Mrs. King: No objection.

Inspector Zimmerman: A photostat will be made of this letter and the photostat will be marked in evidence in lieu of the original.

This document was circulated by the Party which was the forerunner of the Communist Party of the United States; is that correct?

The Witness: Yes.

Mr. Roberts: I object to that question. I think that is stating facts not in evidence. This is copyrighted 1934.

The Witness: Well, some version of it, although there were other pamphlets.

Mr. Roberts: I withdraw that.

Inspector Zimmerman: And subsequently the same pamphlet except a different edition was circulated or caused to be printed and published and distributed by the Communist Party of the United States; is that correct?

The Witness: Yes.

By Mr. Roberts:

Q. Mr. Schneiderman, have you ever heard a quotation of the following nature made at a speech at a meeting or sponsored by the American Communist Party: "The Communists should get the existing government engrossed in as many troubles as possible and when they become sufficiently weakened by strikes and dissension, the Communist Party will step in with a new government to take over the capitalist government by force, if necessary?" Do you remember ever having heard anything like that? A. No.

Q. If you had heard anything like that, would you have done anything about it? A. I wouldn't have agreed with it.

Q. But you say you never recall having heard it? A. No.

Q. I will see if I can refresh your recollection. Did you attend a meeting of a Mass Lenin Memorial Meeting of the Alameda County Communist Party held January 24, 1947 at the Westlake Junior High School in Oakland?

Mrs. King: I object to this as being long after the period involved in this case.

Mr. Roberts: I think it might have some bearing upon Mr. Schneiderman's capacity to speak on the question.

Inspector Zimmerman: This is in relation to Mr. Schneiderman personally; is that correct?

Mr. Roberts: That's right.

Inspector Zimmerman: I will allow it, objection overruled.

The Witness: I don't recall. I attend hundreds of meetings and I couldn't possibly recollect whether I attended such a meeting or not.

By Mr. Roberts:

Q. Do you know a person named Steve Nelson? A. Yes.

Q. Do you remember having sat on the platform with him at such a Mass Lenin Memorial Meeting? A. I have been at many meetings with him but I couldn't recall whether I attended such a meeting with him or not.

Q. Do you have any recollection of having heard a speaker make the statement that I just quoted at such a Mass Lenin Memorial Meeting? A. No. Knowing Steve Nelson I don't believe that he made such a speech.

Q. I am merely asking whether you heard that at such a meeting? A. No.

Mr. Roberts: That is all.

Inspector Zimmerman: Counsel, do you desire to examine the witness on direct as you indicated yesterday?

Mrs. King: I should like to put in certain offers of proof because I understand that the Examining Inspector will object to the introduction of any excerpts from literature. Yesterday the witness said that he could produce certain quotations. He has

those quotations with him but because of the rulings made by the Presiding Inspector I assume that he cannot introduce them without introducing the volume in question.

Inspector Zimmerman: I would very much like to have the volume in question if it will assist me in reaching a determination of the issues in this case. If it will help the Respondent's case, I think it is counsel's position to place the document in evidence.

If the excerpt is helpful, surely the document itself should be in evidence.

Mrs. King: It seems to me that the purpose of making this offer of proof is to show that the witness was stating the truth when he said that these excerpts could be found. It seems to me that the amount of literature that is now in evidence is sufficient to establish that the Communist Party is not of the character charged in the warrant of arrest and the purpose of introducing these quotations are simply to sustain the witness' position of yesterday.

Inspector Zimmerman: But that position of yesterday is exactly the issue in this hearing. It seems to me that if counsel has evidence which relates directly to the issues of this hearing she should be prepared to offer full proof.

I cannot conceive of counsel not being prepared to offer evidence if she has it available.

Mrs. King: It seems to me that the proof in this case is now sufficient.

Mr. Englander: Mr. Presiding Inspector, you went into great length yesterday in pressing the witness as to where he has the quotations on a certain line of questioning.

Inspector Zimmerman: I am fully aware of that. I would very much like to have the entire pamphlet or document from which you say there is proof of the position taken by the witness yesterday.

Mr. Englander: You may very well find it in the library if you want it.

Inspector Zimmerman: However, I cannot consider it in evidence whereas if I just consider the excerpt that will be in evidence and the document will not.

I do not feel that this is proper in this hearing. I will be very happy to accept the entire document if offered by counsel. On this offer of proof it is not ordinary procedure in our hearings. I don't believe that it should be given the weight of evidence, and I appreciate that the witness says that he has excerpts that will support his position.

I say that counsel, if it has such evidence bearing upon the issues, should present it as evidence in this proceeding. Will counsel do so?

Mrs. King: Counsel does not wish to do so because of the cost of printing a record if it becomes necessary to take this matter into court, and for that reason counsel is hesitant in producing the documents in question.

Inspector Zimmerman: Off the record.

(Discussion off the record.)

Inspector Zimmerman: It is my ruling that excerpts from documents purporting to be Marxist-Leninist doctrine will not be allowed in the record. The entire document should be produced.

Do you desire to examine the witness at this time?

Mrs. King: May we have a short recess?

Inspector Zimmerman: Very well, we will take a short recess at this time.

(A short recess was taken.)

Inspector Zimmerman: Before we resume, I wish to make it clear to counsel that by my direction that I want the entire document in evidence I do not mean the entire works of Lenin, but I want the entire literary document in which the excerpt appears to be offered rather than merely an excerpt. Is that clear to counsel?

Mrs. King: That is clear to counsel and after consultation with co-counsel and the witness, it has been determined in view of the ruling of the Presiding Inspector not to introduce the documents in evidence and merely to refer to the matter in the brief.

Inspector Zimmerman: During the recess, the Examining Inspector indicated that he would like to ask the witness a few additional questions and counsel has acquiesced so the Examining Inspector may proceed.

By Mr. Roberts:

Q. Mr. Schneiderman, when you referred to Mr. H. M. Wicks, the author of this article of the 1929 Communist Magazine, you stated that he had been expelled from the Communist Party because of un-Communist activity? A. I said under some rather shady circumstances which I can't recall and that subsequently I believe I heard that he became an employers' agent.

Q. He became an employers' agent after he left the Party? A. He may have been before and I wouldn't say as to that.

Q. But he wasn't expelled because he wrote this article, was he? A. I don't recall the exact circumstances under which he was expelled.

Q. Do you recall how long after he wrote the article he was expelled? A. I would say several years, but I don't recall the year. Was this in 1929?

Q. This is July 1929. A. It was in the '30s, some time in the '30s, probably in the early or middle '30s, but I don't recall the exact year.

Q. So that he wasn't expelled merely because he wrote this article? A. I don't know one way or the other. I don't know the exact grounds but the impression I have is that the circumstances went into his background and his whole political attitude.

Q. If his remarks in this article were offensive to the Communist Party, would they have permitted him to publish things in their behalf thereafter? A. As long as the article was considered as a subject for discussion, yes.

Q. Even though he discussed it in a manner in which the Communist Party disapproved? A. We just wouldn't publish it again or widely circulate it.

Q. I am not speaking about this, but suppose this article were considered offensive to the Communist Party, they wouldn't employ the same writer to publish any further articles for them, would they? A. That doesn't necessarily

hold. He could have been corrected. Writers often make mistakes and they don't have their heads chopped off because they make a mistake.

Q. I just wanted to call your attention to the fact that a book review by one H. M. Wicks appears in the July 1934 issue of The Communist which happens to be in evidence here and he reviews here the report to the 13th Plenum of the Executive Committee of the Communist International which is published by Workers Library Publishers.

At any rate, he was in good standing as of July 1934, was he not? A. I don't know. All it proves to me is that he was demoted to book reviewer.

Q. Do you know that as a fact or is that merely an inference on your part? A. No, merely an inference.

Mrs. King: May I see that book review, please?

Mr. Roberts: Yes, right at the end.

By Mr. Roberts:

Q. Have you ever written any articles which were published by the Communist Party? A. Very frequently, yes.

Q. You have? A. Yes.

Q. You weren't doing it in the days during the '30s though, were you? A. Yes, I was. I believe the files of the Daily Worker and possibly The Communist would show at various intervals articles by myself.

Q. Were they published in pamphlet form for general circulation? A. Not national, no, but the state organization of the Communist Party in California has on more than one occasion published either a speech of mine or an article in pamphlet form.

Q. Was that because you weren't high enough nationally at that time? A. No, because I wrote on subjects which dealt with some specific question and in California on a local basis.

Q. Did you ever edit any of the official organs of the Communist Party? A. No.

Q. Your highest position in the Communist Party has been as a member of the National Committee; is that right? A. Yes.

Q. That is pretty high, at any rate, isn't it? A. That is part of the national leadership of the Party.

Q. Now you referred above to M. J. Olgin in a fairly disparaging manner. A. I didn't think it was disparaging.

Q. I assumed it was and I just want to clear up the record in that regard: Mr. Olgin did publish pamphlets which were distributed by the Communist Party, isn't that so? A. Yes, he was a very fine writer.

Q. And they were distributed nationally, weren't they? A. Yes.

Q. And he was a well known figure in the Communist Party, was he not? A. Yes, he was.

Q. And he occupied a fairly high position there, did he not? A. Yes.

Q. He was editor of one of the official publications; isn't that correct? A. Yes.

Q. And I think you testified—well, I am not sure and I am not going to quote you, but I believe you testified that he was on the National Committee. A. I don't recall whether he was or not. He may have been.

Q. Maybe it was another witness who did testify to that. But, at any rate, is there any doubt in your mind as to whether Mr. Olgin knew the doctrines of the Communist Party? A. Yes, he knew them, but all I said was that he was expressing his own views there and we Communists don't consider criticism or self-criticism of our own previous mistakes as necessarily disparaging.

As a matter of fact, we consider that one of the strongest points about the Communist Party.

Q. Would you say that you here today and yesterday have been expressing your own views? A. I have always expressed my own views to the best of my ability.

Q. In other words, you are telling your own views as to what the Communist Party stood for during the period involved; is that correct? A. As an officer of the Party interpreting to the best of my ability the position of the Communist Party and as I have always practiced it is an officer of the Party for a number of years since I have been a member.

Q. And here Mr. Olgin was telling his views of what the Communist Party stood for as an officer of the Party; is that correct? A. Yes, but that doesn't prove that he held those views all the time before this thing was written or afterwards.

Q. I am merely speaking as of the time he published this. Those were his views of what the Party stood for then; is that right? A. Yes.

Q. And the Party went and published this in various editions and distributed it nationally; is that right? A. Yes.

Q. And the same with Mr. Bittelman who published The Communist Party in Action which is in evidence in this case, isn't that so? A. I suppose so, I said I didn't recall that particular pamphlet.

Q. But he was a well known theoretician, was he not, in the Party? A. He was a well known leader of the Party, yes.

Q. And his views are entitled to weight, wouldn't you say, in determining what the doctrines of the Party were? A. Yes, but not as much weight as the official documents of the Party because that is the final summation of the collective discussion in the Party.

Q. But they are entitled to weight? A. Yes.

Q. Just as you feel that your views are entitled to weight because you are an official? A. Yes.

Mr. Roberts: That is all.

Inspector Zimmerman: Counsel, you may proceed.

Redirect examination by Mrs. King:

Q. Mr. Schneiderman, I think this is going to be the final question. Since the Government in this proceeding is charging that the Respondent belonged to an organization, namely, the Communist Party of the United States which advocated the overthrow of the Government by force and violence I should like to ask you what has been the record of the Party's activities during its history and especially during the membership of the Respondent with reference to the use of force and violence? A. During my membership as a member and officer of the Party, to my knowledge the Communist Party has never advocated the use of force and violence to overthrow the Government of the United States; and whenever experience indicated where some members, contrary to our principles, did advocate force and violence, they were expelled from the Party in accordance with the provisions of our Constitution.

And I have personal experience with at least one member that I know who advocated force and violence and who was subsequently expelled in California, a man by the name of Miles G. Humphrey who was later used as a Government witness both in the Bridges Case and in my citizenship case.

But he was expelled from the Communist Party at the time when I was head of the Party in California for advocating force and violence contrary to the Constitution of our Party.

Mrs. King: That is all.

Inspector Zimmerman: We will take a recess at this time after which I shall ask the witness some questions.

(A short recess was taken.)

By Inspector Zimmerman:

Q. Mr. Schneiderman, I desire to clarify in my own mind some portions of your testimony. I believe you testified that originally the Communist Party of the United States became a fraternal affiliate of the Communist International, was that your testimony? A. Yes.

Q. It subsequently became a section of the Communist International; isn't that correct? A. I don't recall that we ever used the term "section". We spoke about being affiliated or an affiliate.

Q. Do you know that Mr. Earl Browder, the general secretary, testified before a Congressional Committee about 1933 or 1934 that it was a section of the Communist International? A. If he did, then that is more authoritative than my recollection.

Q. Then you are not able at this point to state whether or not it actually did become a section of the Communist International? A. No, I can't, but I don't consider it significant because the term could have been used without any different relationship being expressed.

Q. You originally stated that you entered the Communist Party some time in 1924. In what year did you first occupy any national office? A. It was either 1930 or 1932, I can't recall at the moment.

Q. And in the national policies of the Communist Party which were entered into before this year when you became

a national officer, you did not have first-hand knowledge of them; is that correct? A. You mean at that time?

Q. Prior to your becoming a national officer of the Communist Party, you did not have a first-hand knowledge of the actions of the National Committee, did you? A. Well, I didn't have an intimate knowledge but as an active member and officer of the Party in California, I had a fairly extensive knowledge of Party activities and Party policies.

Q. With respect to your testimony here in which you gave what you knew of the Communist position on Marxism-Leninism, you were giving what you understand is the position of the American Communist Party; is that correct? A. Yes, and as I have taught it myself.

Q. You did not presume to give the position of the Communist International itself with respect to the matters about which you testified, did you? A. No, except as I attempted to interpret them.

Q. And do you have a first-hand knowledge of the position of the Communist International on such matters as appear in its official documents? By that I mean, were you present at any of its sessions? Did you participate in arriving at any of the decisions of the Communist International? A. No, I didn't participate. I was present at one of the sessions because I happened to be in the Soviet Union in 1935.

Q. Then in 1935 was the first time that you participated in any of the meetings wherein the Communist International promulgated the policies which appear in the documents which are in evidence; is that correct? A. I was simply a visitor at one of the public sessions.

Q. You never participated in enacting any of the directives or resolutions or conclusions of the Communist International personally, have you? A. Not unless they were decisions made by the leadership of the Communist Party of the United States.

Q. There was up to the time of the disaffiliation of the Communist Party from the Communist International in 1940 an American commission in the Executive Committee of the Communist International; is that correct? A. So I understand from some of the literature.

Q. And what is the function of a commission of the Executive Committee of the Communist International? What was it, may I amend my question, during the period

of the Respondent's membership from 1925 to 1939? A. As far as I know it would be to study American conditions and help the leadership of the Communist International determine its position.

Q. This American commission of the Communist International was a bureau of the Executive Committee; isn't that correct? A. I don't know the exact relationship.

Q. You are not aware of the relationship of a commission in the Executive Committee of the Communist International to the Communist International? A. I assume the commission was some subcommittee of the Communist International. I don't know the exact relationship there.

Q. In part 3 of the Constitution of the Communist International which appears in Exhibit 5 in this proceeding, there appears paragraph 20: "20. The E.C.C.I. and its Presidium have the right to establish permanent bureaus (Western European, South American, Eastern and other bureaus of the E.C.C.I.) for the purpose of establishing closer contact with the various sections of the Communist International and in order to be better able to guide their work.

"21. The sections must carry out the instructions of the permanent bureaus of the E.C.C.I. Sections may appeal against the instructions of the permanent bureaus to the E.C.C.I. or to its Presidium but must continue to carry out such instructions pending the decision of the E.C.C.I. or of its Presidium."

Now am I to understand from what you have testified that, when a permanent bureau of the E.C.C.I. issued a directive or an instruction to the Communist Party of the United States, these particular paragraphs of the Constitution of the Communist International were not controlling? Is that your testimony? A. From my own knowledge I was never present at any meeting where either any directive was received from the Communist International nor any directive that was accepted as a decision, a binding decision of the Communist International.

I have always understood that every decision of our leading committees and of our Conventions were made by the decision and the conviction of the members of those committees and that any other opinions were considered as advice by people maybe more experienced in Marxist

theory than we were but nevertheless not binding upon us. That has been my experience.

Q. But I invite your attention to the language appearing in paragraph 21 of the Constitution of the Communist International which says that "the sections must carry out the instructions of the permanent bureaus of the E.C.C.I. Sections may appeal against the instructions of the permanent bureaus to the E.C.C.I. or to its Presidium but must continue to carry out such instructions pending the decision of the E.C.C.I. or its Presidium."

Would it be possible for such directives to have been received by the National Committee of the Communist Party of the U.S.A. and agreed to or put into effect by the National Committee without your knowledge of the fact that the action was being done pursuant to the directive of the bureau of the Executive Committee? A. I don't see how any such thing could have happened without my knowledge when I was a member of the National Committee.

Q. Is it true that the National Committee also has a political bureau? A. No, it does not.

Q. It does not? A. It has a national board.

Q. And this national board is a national board of the Central Committee or National Committee of the Communist Party of the U.S.A.? A. It is a sort of an Executive Committee of the National Committee.

Q. And that committee functions during the time that the National Committee is not in session; is that correct? A. Yes.

Q. Were you ever a member of this National Bureau? A. Not during the existence of the Party. I was during the brief interval when the Communist Party was dissolved and the Communist Political Association was in existence, but only for that period.

Q. Then it would have been possible for the National Bureau of the Communist Party of the U.S.A. to have received directives which required action on the part of the committee or of the Communist Party of the U.S.A. without your having personal knowledge that the action of the committee or the action of the bureau was being done pursuant to the directive from the Communist International? A. That would have been impossible. I was and am the head of one of the largest Party organizations in the country and all major questions are discussed with the leaders of Party organizations.

Q. Since what year? A. I have no knowledge of any important questions that were discussed or acted upon without consultation with people in my position in the Party.

Q. And since what year is this the case? A. Ever since I have been an officer of the Party.

Q. Which is what year? A. Well, the National Committee, approximately 1930 or 1932.

Q. I thought previously you said 1935? A. No, I said 1930 or 1932. I meant to look it up in the proceedings there (referring to Supreme Court case). But previous to that I was a state officer of the Party in California and I was a national officer of the Young Communist League for a number of years, and so it would have been impossible for any major questions to have been discussed without my knowledge.

Q. In the document which is in evidence in this proceeding as Exhibit No. 18, the Membership Book, in 1930 there appeared some printed pages which are headed Extracts from the Statutes of the Communist Party of the U.S.A.: These extracts indicated that the Communist Party of the U.S.A. had a Constitution or statutes by which it was governed in 1930.

Is it correct that the Communist Party of the U.S.A. had such statutes in effect governing it? A. There were many drafts of Constitutions and statutes that were presented to Conventions and National Committees and discussed without any agreement for a number of years. As I have stated, the final agreement on a Constitution which we considered as a programmatic document of the Party was finally acted on in 1938 and any other Constitutions or statutes that were in existence before that were simply drafts that were presented to Conventions or leading bodies for discussion without any final agreement on them.

Q. But the fact that in a Communist Party Membership Book of 1930 there appear these extracts would indicate that this was considered by the Communist Party to be its guiding directives at the time in 1930; is that a correct inference? A. Yes, but all members understood that the Conventions never finally acted on these statutes because it was so reported to the Party membership.

Q. Now you say that these statutes were tentatively accepted by the Party but never finally acted upon by the

National Convention; is that correct? A. No, I said they were drafts submitted for discussion. The only time the Party acted upon any of these drafts was when it adopted the final draft in 1938. It sounds like a long time but it took many years also for Marxian theory to be developed and evolved out of discussion and debate and polemics.

Q. In this book, Exhibit 14, there appears under section 4, The Structure of the Party, the following which purports to be extracts of the statutes of the Communist Party of the U.S.A. as of 1930 and I quote: "1. The Communist Party like all sections of the Comintern is built upon the principle of democratic centralization. These principles are—" and I go down to "C" "—acceptance and carrying out of the decisions of the higher Party committees by the lower, strict Party discipline and immediate and exact applications of the decisions of the Executive Committee of the Communist International and of the Central Committee of the Party."

In that sub-paragraph "C", I invite your attention to the fact that it says "immediate and exact applications of the decisions of the Executive Committee of the Communist International."

I also invite your attention to section 12, Party Discipline, which appears towards the end of this pamphlet which reads as follows: "The strictest Party discipline is the most solemn duty of all Party members and all Party organizations. The decisions of the Communist International and the Party Convention of the Central Committee and of all leading committees of the Party must be promptly carried out.

"Discussions of questions over which there have been differences must not continue after the decision has been made."

The fact that the statement appears here as extracts from the statutes of the Communist Party, that Party members were bound by the decisions of the Communist International and could not discuss them after the decision had been reached, would appear to me to be evidence that that was what the Party stood for in 1930.

Is my inference correct? A. It is formulations like this that made Party Conventions refuse to accept these drafts as Party Constitutions or statutes.

Q. You have stated that the 1938 Constitution was the final version of all these various versions which previously had been drafted; is that correct? A. Yes.

Q. In this Constitution of 1938, which is in evidence in this proceeding as Exhibit No. 4, I find in the preamble to which this Constitution is dedicated the following passage:

"By the establishment of Socialism according to the scientific principles enunciated by the greatest teachers of mankind, Marx, Engels, Lenin and Stalin, embodied in the Communist International * * * to this end the Communist Party of the United States of America establishes its basic laws of organization in the following Constitution."

The Communist Party then in 1938 dedicated itself to the scientific principles of Marx, Engels, Lenin and Stalin as embodied in the Communist International; is that correct? A. Yes, it was affiliated with the Communist International at that time.

Q. But I mean is it correct that this Constitution was dedicated to the scientific principles which are embodied in the Communist International? A. At that time, yes, that was no secret.

Q. Now I find in the Program of the Communist International, which is in evidence as Exhibit No. 5, the following passage appearing on page 84: "The international Communist discipline must find expression in the subordination of the partial and local interests of the movement to its general and lasting interests and in the strict fulfillment by all members of the decisions passed by the leading bodies of the Communist International."

Now I ask you since the Communist Party of the United States dedicated itself to the principles embodied in the Communist International, would it not be a correct inference that this principle, this basic and guiding principle in the Program of the Communist International which I have quoted to you, governed the Communist Party of the United States at least up to 1938? A. Its theoretical principles did, yes. Had we abandoned those theoretical principles the Communist International could have expelled the American Communist Party.

Q. Very well. Let's examine what are the theoretical principles of the Communist International as set forth in its Program.

On page 11 in speaking about the general features of capitalist society there are some general statements made. I ask you to examine them and would you say from its appearance that it had application to all capitalist societies? A. Which part are you referring to?

Q. The entire thing. I ask you to examine the paragraphs there and ask you whether they were speaking generally for general application? A. Yes, to all capitalist societies.

Q. And am I correct in stating that the United States was one such capitalist society? A. Yes.

Q. Reading from page 11 in setting forth the characteristic features of capitalist society, there appears this which I quote: "Exploitation relationships and the economic domination of the bourgeoisie and their political expression in the organized capitalist state—the instrument for the suppression of the proletariat."

Now is this a general principle upon which the Communist International based itself? A. Yes.

Q. Was it the view of the Communist International, the Marxist-Leninist view, that the organized capitalist state is the instrument for the suppression of the proletariat? A. Yes.

Q. That statement has application to the United States; is that correct? A. Yes. Do you want examples?

Q. No, all I am interested in now is in your helping me determine what in Marxism-Leninism or in the Program of the Communist International are the basic principles which guided not only the Communist International but also the Communist Party of the U.S.A.

On page 15 there appears the following under section 3, The Forces of Imperialism and The Forces of Revolution, which I quote: "Expressing the tendency for unification of the various sections of the dominant class, the imperialist form of capitalism places the broad masses of the proletariat in opposition not to a single employer but to an increasing degree to the capitalist class as a whole and to the capitalist state."

Now I ask you is that a fundamental principle of the Communist International? A. Yes.

Q. Did that have application to all countries including the United States? A. Yes.

Q. There appears on page 16 the following which I quote:

"This being the case state power which is becoming the dictatorship of the finance capitalist oligarchy and the expression of its concentrated might acquires special significance for the bourgeoisie."

Is that a general principle applicable to all capitalist countries? A. Yes, and especially to the United States. I would like to give some examples.

Q. No, at this point I am just interested in finding out with your help which are the fundamental principles in the Program and I will be glad to give you an opportunity later to explain or clarify further. A. Just so I have the opportunity.

Q. I will be glad to give you an opportunity.

Mr. Englander: I would submit, Mr. Presiding Inspector, that the witness be given an opportunity at this time to clarify it. The rules which you have laid down during the proceedings that a witness may clarify his answer govern not only when Government attorneys or defense counsel ask questions but those rules apply as well when you ask questions.

Inspector Zimmerman: You are correct, Counsel. However, I have not stated as a rule that where a witness has sufficiently answered a question he need further elaborate necessarily.

I am at this point asking very limited questions and I do not see the need to allow elaboration which is beyond the answer to the question.

Mr. Englander: You have seen that need throughout the hearing. Throughout the hearing that need has taken place, and I don't see why since you are doing the questioning that need is not needed.

I think the witness should be given an opportunity to amplify his answer.

Inspector Zimmerman: The witness may clarify an answer but not necessarily go beyond the question to answer corollary matters or bring in instances at this point.

The Witness: Can I qualify an answer beyond saying yes or no?

Inspector Zimmerman: Why, certainly.

The Witness: Well, I have some qualifications to each of these answers but I am willing to go on as long as I get the opportunity later.

Inspector Zimmerman: Yes.

The Witness: But I don't intend to answer all these questions yes or no.

Inspector Zimmerman: I appreciate that. At this point I want you to help me in determining what are the basic principles in relation to the state of Marxism-Leninism.

The Witness: I think it would have helped clarity if you would have allowed me to elaborate but, never mind, I will at a later time.

Inspector Zimmerman: All right.

By Inspector Zimmerman:

Q. Yesterday I asked you some questions in relation to Leninism and you told me that you understood Communist philosophy as Marxism-Leninism and that the two were not separable; is that correct? A. Yes.

Q. Is that a correct recollection of your testimony? A. Yes.

Q. With regard to Leninism, Exhibits 22 and 23 being Foundations of Leninism and Problems of Leninism set forth statements by Mr. Stalin on Leninism; is that correct? A. Yes.

Q. Then he could see where Leninism was a distinct body of philosophy from basic Marxism or at least an advancement of it; is that correct? A. Yes, but we used the term interchangeably. There is no point in trying to differentiate between Marxism and Leninism.

Q. In the introduction to the Foundations of Leninism which is Exhibit 22 in this proceeding, Mr. Stalin sets forth the following: "And so what is Leninism? Some say that Leninism is the application of Marxism to the peculiar conditions of the situation in Russia. This definition contains a particle of truth but not the whole truth by any means.

"Lenin indeed applied Marxism to Russian conditions and applied it in a masterly way. But if Leninism were only the application of Marxism to the peculiar situation in Russia it would be a purely national and only a national, a purely Russian and only a Russian phenomenon. We know, however, that Leninism is not merely a Russian but an international phenomenon rooted in the whole of international development * * *.

"Others say that Leninism is the revival of the revolutionary elements of Marxism of the '40s of the 19th century as distinct from the Marxism of subsequent years when it is alleged it became moderate non-revolutionary. If we disregard this foolish and vulgar division of the teachings of Marx into two parts, revolutionary and moderate, we must admit that even this totally inadequate and unsatisfactory definition contains a particle of truth. This particle of truth is that Lenin did indeed restore the revolutionary content of Marxism which had been inured by the opportunists of the 2nd International.

"Still that is but a particle of the truth. The whole truth about Leninism is that Leninism not only restored Marxism but also took a step forward developing Marxism further under the new conditions of capitalism and of the class struggle of the proletariat."

From what I have quoted, it appears to me that Stalin in this passage did not consider Lenin's teachings to be a Russian phenomenon. Do you disagree with Stalin on that point? A. No, I never said that.

Q. Then the question that we have in this proceeding is, what of Lenin's teaching has an international application to the United States; is that correct? A. Yes. Do you want me to state my opinion as to what its application is to the United States?

Q. No, I am interested in Lenin's statements. A. I thought that was your main point that you wanted to get.

Q. No. I want to understand what Lenin and Stalin preached as to Leninism and then I will be very happy to learn from you what parts of their teachings you consider that the Communist Party in the United States found applicable.

First I am interested in knowing the essence of what Leninism is, if I can ascertain it from what I have available. Do you recall I quoted to you certain extracts from the Program of the Communist International which had reference to the nature of the state? A. Yes.

Q. And we agreed that a fundamental principle of the Communist International was that the organized capitalist state was the instrument for the suppression of the proletariat? A. Yes.

Q. You are familiar with the fact, I believe, that in the work which now bears the title State and Revolution, Lenin analyzed the nature of the capitalist state? A. Yes.

Q. As a matter of fact, on page 7 of State and Revolution, Lenin states: "The distortion of Marxism being so widespread it is our first task to resuscitate the real teachings of Marx on the state."

That is what he set out to do in State and Revolution; is that correct? A. That's right.

Q. And after quoting an extract from Engels as I read it, he says: "Here we have expressed in all its clearness the basic idea of Marxism on the question of the historical role and meaning of the state. The state is the product and the manifestation of the irreconcilability of class antagonisms."

That is the classical Leninist definition of the state; is that correct? A. Yes.

Q. He goes on further to state, as I read him on page 9: "According to Marx the state is an organ of class domination, an organ of oppression of one class by another. Its aim is the creation of order which legalizes and perpetuates this oppression by moderating the collisions between the classes.

"But in the opinion of the petty bourgeois politicians order means reconciliation of the classes and not oppression of one class by another. To moderate collisions does not mean they say to deprive the oppressed class of certain definite means and methods of struggle for overthrowing the oppressors but to practice reconcilation."

And then Lenin goes on to state: "The state is an organ of domination of a definite class which cannot be reconciled with its antipodes (the class opposed to it)—"

The classical Leninist teaching then is that the state is an organ of domination of a definite class and that the classes are irreconcilable, is that the definition? A. In the sense that they are class interests, yes. As long as the working class is exploited by the imperialists.

Q. And on page 68 of State and Revolution, Lenin sets forth what democracy is: "Democracy is not identical with the subordination of the minority to the majority. Democracy is a *state* recognizing the subordination of the minority to the majority, i.e., an organization for the systemic use of violence by one class against the other by one part of the population against another."

That is the classical Leninist position of democracy; is that correct? A. What he is saying there is that a government, as I understand it,—I don't quite get the setting of this particular statement—what he is saying there is that a government in office will enforce its rule on the minority and in that sense to use force and violence. That is the way I understand it.

Q. I am not referring to force and violence being used by anyone. We started out on the assumption that the Leninist position is that the state— A. (Interposing) Uses violence, isn't that what it says?

Q. Just a moment, please. "Is a special repressive force for one class to suppress another." Isn't that what we just went over? A. Yes.

Q. And democracy, according to this Leninist expression, is a state recognizing the subordination of the minority to the majority, that is an organization for the systemic use of violence by one class against the other by one part of the population against another.

That is the Leninist view of democracy; is that correct? A. Only in the sense that I have interpreted it.

Q. As Lenin sets it forth, it appears that any democracy which is a state or a state which is a democracy is an organization for the systemic use of violence by one class against another, is that true? A. I am not sure whether he is referring there to a state meaning a situation, a state of things or whether he is referring to the government apparatus.

But if he is referring to the fact that any government, whether it is a democracy or not, will use violence to enforce the rule over the minority then, of course, that is the classic Leninist view of the state.

Q. Then he includes democracy within the realm of those states which use violence systematically by the class in power to suppress the class that is not in power whose interests are irreconcilable with the class that is in power; is that correct? A. I would say that the violence, of course, would be relative depending on the degree of democracy, where a greater amount of democracy exists there would be less violence and less evidence of violence. But where less democracy exists, say, as in the South, then there is a greater degree of violence approaching that which would exist under Fascism or czarism.

Q. May I quote to you from page 18 what Lenin says about a democratic republic: "We are in favor of a democratic republic as the best form of the state for the proletariat under capitalism. But we have no right to forget that wage slavery is the lot of the people even in the most democratic bourgeois republic.

"Furthermore, every state is a 'special repressive force' for the suppression of the oppression of the oppressed class. Consequently *no* state is either 'free' or a 'people's state'."

The Leninist position recognizes then that a democratic republic while it is the best form of state under capitalism still is a special repressive force for the suppression of the oppressed class; is that the correct Leninist view, classical Leninist view? A. Yes, but as long as it is understood that in an interpretation it can be relative as I indicated before.

Q. All right. I invite your attention to page 14 of State and Revolution wherein appears the following: "The omnipotence of 'wealth' is thus more *secure* in a democratic republic since it does not depend on the poor political shell of capitalism. A democratic republic is the best possible political shell for capitalism and therefore once capital has gained control (through the Palchinskys, Chernovs, Tseretelis and company) of this very best shell, it establishes its power so securely, so firmly that no change either of persons or institutions or parties in the bourgeois republic can shake it". A. Well, Lenin here obviously—

Q. (Interposing.) I haven't finished my question. A. Excuse me.

Q. Here Lenin has said that a democratic republic makes the omnipotence of wealth most secure. Is that a correct Leninist position? A. Yes, but it must be understood that he is basing his conclusions there primarily on the Russian experience and, furthermore, he could not have foreseen that other forms besides the democratic republic would be used later by those forces that favored Fascism or some other reactionary regime, monarchies and so on, as in some countries today that are evident.

So that the democratic republic is not necessarily the best form that the capitalist chooses. Lenin was obviously speaking primarily about the Russian experience to which he referred to specifically.

Q. He was referring to democratic republics in the other quotation that I quoted to you; isn't that correct? A. Yes, but this indicates, I think, that he was thinking primarily of the Russian experience. What he is trying to say there is that capitalists prefer a democratic republic to czarism because they thought they could rule better and could rule over the workers better.

Q. Isn't that the Leninist position that in a democratic republic the capitalist can rule over the people better? A. Yes, under czarism.

Q. That is the Leninist position? A. Yes, they are freer to exploit the workers than under a backward semi-feudal regime where the development of the productive forces are held back.

Q. Now on page 13 in quoting Engels, Lenin apparently quoting with favor from Engels sets forth the following:

"In a democratic republic, Engels continues, 'Wealth wields its power indirectly but all the more effectively' first by means of 'direct corruption of the officials' (America); second by means of the 'alliance of the government with the Stock Exchange' (France and America)".

In so quoting Engels it appears to me that Lenin comprehended the United States within the purview of his remarks, is that a proper inference to draw as to Lenin's position? A. Yes, but let me add something here that both Lenin and, particularly Engels in analyzing the role of a democratic republic, not only supported and fought for the establishment of democratic republics against the feudal and semi-feudal regimes that they were fighting against but viewed them as a much higher form of both political, economic and social development and in the sense of greater democracy than any previous form that existed up to that time in Europe.

Furthermore, as far as the references to the United States are concerned, I think that what Lenin said about the financial oligarchy ruling this country is more than borne out by present experience.

Q. Exactly. A. I have here a list—

Q. (Interposing.) I am not interested now in going beyond— A. (Interposing.) I want to finish the sentence.

Q. I have had a sufficient answer to the question.

Mr. Englander: I submit the witness be allowed to complete the answer.

Inspector Zimmerman: I will allow him to get into corollary matters later. At this point I am interested in learning whether he understands and I understand the Leninist position on the state.

So if I may, I will give you an opportunity later.

The Witness: I have not finished my sentence, and if you want to know my position on what Lenin says I must be allowed to finish my sentence. I haven't completed my idea.

Inspector Zimmerman: Of what Lenin stood for?

The Witness: Yes.

Inspector Zimmerman: All right, go ahead.

The Witness: If you want the best example of what Lenin meant, although he couldn't have foreseen this exact development, I have here a list of some twenty-nine—probably more, but these are all I have at the moment—top members of the Government of cabinet or near cabinet rank who come directly from either Wall Street banks or from the Army and the Navy of the level of generals and admirals; and if that isn't an example of the merging of a financial oligarchy and a military bureaucracy with the state apparatus, I would like to know a better example.

This fully bears out what Lenin said about the finance capital ruling the country in the United States under imperialism.

By Inspector Zimmerman:

Q. So that the Leninist position was correct with respect to the United States; is that correct? A. Yes. Would you care to have these entered into the record, the names of these Wall Street bankers and so on?

Q. No, thank you. On page 10 Lenin sets forth that a standing army and police are the chief instruments of state power. Is that a proper Leninist view? A. Yes.

Q. On page 9 in relation to the Kautskyist distortion of Marx in State and Revolution, Lenin sets forth: "But what is forgotten or glossed over is this: "If the state is the product of the irreconcilable character of class antagonisms, if it is a force standing *above* society and 'increasingly separating itself from it' then it is clear that the liberation of the oppressed class is impossible, not only

without a violent revolution, but also without the destruction of the apparatus of state power which was created by the ruling class and in which this 'separation' is embodied."

The quote that I have just given, speaking solely of the classical Leninist position now, is that the liberation of the oppressed class in the state is impossible without a violent revolution and without the destruction of the apparatus of state power. Is that the classical Leninist position? A. Yes.

Q. In relation to the state? A. Based on past historical experience but not necessarily borne out by subsequent events since this was written.

Q. But the position of Lenin is what I have just stated; is that correct? A. But it is not contrary to Leninism if we can give concrete examples of a peaceful transition to Socialism as I have tried many times to do.

Q. Then the classical Leninist position on the matter of the state is that the state in a capitalist country is an organ used by one class to suppress another; is that correct? A. Yes .

Q. And it is the organ of the capitalist class to suppress the proletariat; is that correct? A. Yes.

Q. And the interests of the capitalist class are irreconcilable with the interests of the proletariat; is that correct, according to the fundamental Leninist position? A. Yes, in the sense—may I elaborate on this point?

Q. Yes. A. In the sense that their class interests cannot be the same for the simple reason that the capital class lives by extracting its profits from the labor of the working class and as long as the working class has to fight to maintain even a decent standard of living their class interests cannot be the same.

They are opposed to each other and that is the basis for the class struggle.

Q. And is it the Leninist position that this conflict between the capitalists and the capitalist states and the proletariat is going on on a world scale in all capitalist countries? A. Yes.

Q. And the proletariats in all these capitalist countries must carry on a struggle against the capitalist and the organ of the capitalist domination of them, the capitalist state; is that correct? That is, on a general world scale.

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U.S. Supreme Court
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Vol. II

TRANSCRIPT OF RECORD

(Pages 481 to 996)

Supreme Court of the United States

OCTOBER TERM, 1951

No. 43

PETER HARISIADES, PETITIONER,

vs.

EDWARD J. SHAUGHNESSY, DISTRICT DIRECTOR OF IMMIGRATION AND NATURALIZATION OF THE PORT OF NEW YORK

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

PETITION FOR CERTIORARI FILED MAY 3, 1951.

CERTIORARI GRANTED OCTOBER 8, 1951.

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A. Yes, sometimes for the right to belong to a union, even as elementary a right as that.

Q. In the Program of the Communist International, Exhibit 5, in talking about the crisis of capitalism and Fascism, there appears the following: "The epoch of imperialism, the sharpening of the class struggle and the growth of the elements of civil war—particularly after the imperialist war—led to the bankruptcy of parliamentarianism," and after discussing the sharpening of this struggle, the Program of the Communist International goes on to discuss:

"The contradictions of capital stabilization and the inevitability of the revolutionary collapse of capitalism."

And on page 26 in relation to this growing contradiction, there appears the following: "The growing competition between imperialist countries, the constant menace of war and the growing intensity of class conflicts prepare the ground for a new and higher stage of development of the general crisis of capitalism and of the world proletarian revolution."

Is that the view of the Communist International during its lifetime that the epoch of capitalism was leading to the revolutionary collapse of capitalism? A. What do you mean by the revolutionary collapse?

Q. I am only quoting the term used in the Program of the Communist International. Are you familiar with the manner in which it is used in this document as appears on page 25? A. It doesn't sound right to me. I wouldn't put it that way. The collapse of capitalism, yes, I think it has been verified by the fact that capitalism has collapsed in a number of countries throughout the world today as a result of the war which also was one of the results of capitalist contradictions.

Q. And on page 26 in the same paragraph relating to the contradictions of capitalist stabilization and the inevitability of the revolutionary collapse of capitalism there appears the following which I quote: "The class struggle which hitherto was conducted in forms determined by the fact that the proletariat was not in possession of state power is now being conducted on an enormous and really world scale; the working class of the world has now its own state—the one and only fatherland of the international proletariat."

This then appears to indicate that in this class struggle the working class of the world, the proletariat, has one, and only one fatherland, the fatherland of the international proletariat.

Is that a basic prineiple of the Communist International to which the Communist Party dedicated itself in its 1938 Constitution? A. That is purely a rhetorical phrase. It is repeating something that Marx said in the Communist Manifesto and it was never understood to be more than a phrase sort of symbolic of the international interests of the working class to which we do dedicate ourselves.

As a matter of fact, in my hearing the Government tried to find out whether I believed in the abolition of countries and nations and so on, so if that is the interpretation of that phrase that is tragic.

Q. On page 34 in the Program of the Communist International, Exhibit 5, in relation to the transition period between capitalist society and Communist society there appears the following: "A period of revolutionary transformation intervenes during which one changes into the other. Accordingly there is also an intervening period of political transition in which the essential state form is the revolutionary dictatorship of the proletariat."

Here then the Communist International states that the revolutionary dictatorship of the proletariat is an essential state form. Is that a correct statement of the Communist International's position in that matter? A. Not necessarily because there are many interpretations that may be made of that. Lenin once referred to the dictatorship of the proletariat as not a form of govenment but a state of things and I would say that the way it is used in this Program it refers primarily to the major experience that we can guide ourselves by from the past.

That is, previous to the time that this was published, the experience of the Russian revolution. That is the way it took place there. It obviously doesn't refer to the manner in which the transition is taking place subsequent to the publication of that program as it is in some countries today.

Q. Up to 1939 there was no so-called peaceful transition and the only experience that the Communists had as to how the transformation was to be established was the Russian model; is that correct? A. Yes, but we always granted the theoretical possibility that there could be a peaceful transition from the days of Marx and Engels, but we had no concrete experience until more recently.

Q. But up until 1939 at least this statement in the Program of the Communist International referring to the state form being a revolutionary dictatorship of the proletariat based itself upon the Russian model; is that correct? A. There was one other example, however, which I might give where a Communist government, that is a working class government under the leadership of Communists, was instituted in Hungary in a peaceful manner but was later overthrown by counter-revolutionaries, but the violence took place after this government was put into office in a peaceful manner.

Q. I appreciate that. A. So had this government been allowed to exist, there might have been in that period a concrete example of a government coming into power in a peaceful manner. It simply bore out the fact that the old dying classes, in this case the Hungarian land owners, the monarchists, the Fascists of those days, refused to accept peaceful and parliamentary means and used violence to overthrow such a government.

Q. The Program of the Communist International in the past literature I just quoted presupposed that in the transition period from capital society and Communist society, the essential state form would be what they term the revolutionary dictatorship of the proletariat.

Is that correct, that the Program of the Communist International sets that forth? A. Yes, but I have never understood the dictatorship of the proletariat to represent a state form. Rather the existence of the relation of forces as to which class was in a dominating position, and I have guided myself by Lenin's old words on this.

Q. Perhaps on page 37 we may reach the answer to that, thereon appears the following: "The Soviet form of state being the highest form of democracy, namely, proletarian democracy, is the very opposite of the bourgeois dictatorship in a mass form. The Soviet state is a dictatorship of the proletariat, the rule of a single class, the proletarian."

It appears clear from this passage, does it not, that the dictatorship of the proletariat was considered synonomous with the Soviet form of state by the Communist International in so setting forth its position in this Program; is that correct? A. Only because it was the only concrete example that the Communist International had. I think I established before that Lenin spoke of the Soviets as a peculiar Russian form.

Q. But up to 1939 the Communist International's position was that the dictatorship of the proletariat was synonomous with the Soviet form of state; is that correct? A. Not necessarily, no. Only in applying to the Russian experience.

Q. You mean that it is your statement that this passage relating to the transition period and the conquest of power by the proletariat in referring to dictatorship of the proletariat did not include all capitalist countries? A. No, it would apply to countries that would have similar conditions existing as in Russia.

Q. But may I invite your attention that in the passage here it says: "Proletarian democracy is the very opposite of bourgeois democracy. It is the dictatorship of the proletariat as opposed to bourgeois dictatorship which is bourgeois democracy."

Apparently here they were referring to democracies; is that not correct? A. Yes. What does that prove?

Q. I merely am trying to clear up in my own mind my understanding on what the Communist International stood for in this document and in its platform which the Communist Party in 1938 dedicated its Constitution to. A. Yes, but it never dedicated itself to apply conditions which didn't apply to the United States.

Q. I appreciate that and that is what I am trying to ascertain. A. And our adherence to these principles does not in any way mean that we would apply any of these principles in a way that did not fit the American scene, the political forms, the social conditions, the class relationship and the democratic traditions of this country.

Q. We have already ascertained that we have a finance oligarchy in the United States and have had it during all of the time since 1914; is that correct? A. They have not wiped out all democracy although a good section of it in the South.

Q. On page 30 in State and Revolution Lenin states:

"The main point in the teaching of Marx is the class struggle. This has very often been said and written but this is not true.

"Out of this error here and there springs an opportunist distortion of Marxism. Such a falsification of it as to make it acceptable to the bourgeoisie. The theory of the class struggle was not created by Marx but by the

bourgeoisie before Marx and is, generally speaking, acceptable to the bourgeoisie.

"He who recognizes only the class struggle is not yet a Marxist. He may be found not to have gone beyond the boundaries of bourgeois reasoning and politics. To limit Marxism to the teaching of the class struggle means to curtail Marxism, to distort it to reduce it to something which is acceptable to the bourgeoisie.

"A Marxist is one who *extends* the acceptance of the class struggle to the acceptance of the dictatorship of the *proletariat.*"

Here, according to the Leninist position, a Marxist is only one who accepts the necessity for the dictatorship of the proletariat. Is that the correct Leninist position? A. Yes, and I accept the necessity for the dictatorship of the proletariat in the Soviet Union. I do not think that it will necessarily apply in exactly the same form in the United States.

Q. Then you are not a Marxist in the sense that Lenin says a Marxist must be in this passage; is that correct? A. You can form your own opinion of that.

Q. Tell me, when the Communist Party comes into power in the United States will it organize the state as a dictatorship of the proletariat? A. I have no crystal ball and I wouldn't like to predict in what form the Communist Party would organize the government except that I can assure you that it would be by a democratic process with the support of the majority of the people.

Q. You have no knowledge— A. (Interposing.) And not until then.

Q. You have no knowledge of what the position of the Communist Party in the United States was as to how it would organize the country when and if it took power? A. No, I have no blueprint.

Q. And the Communist Party had no blueprint? A. If I thought we would tomorrow maybe I would start drawing up a blueprint, but I don't have it now. For us the immediate question is how we can help educate the American people and the working class to fight for their democratic rights and to educate them as to the need for Socialism and to fight against the war danger.

Q. Is it correct that Lenin conceives of the class struggle as a battle between the two classes, the proletariat and the capitalist class? A. Yes, not necessarily as a physical battle.

Q. I appreciate that. A. A conflict yes.

Q. And he considered that in changing from a capitalist form of society to a Communist form of society that that would constitute a revolution in a sense of a very marked change; is that correct? A. Yes, in the same sense as the industrial revolution brought on the advent of capitalism regardless of the method by which it was brought about.

Q. Now in talking about revolutions, in Left Wing Communism, an Infantile Disorder by Lenin, Lenin states, and I quote: "From this follow two very important practical conclusions: First, that in order to fulfill its task, the revolutionary class must be able to master all forms or sides of social activity without exception (completing after the capture of political power sometimes at great risk and very great danger what it did not complete before the capture of power); second, that the revolutionary class must be ready to pass from one form to another in the quickest and most unexpected manner.

"Everyone will agree that an army which does not train itself to wield all arms or the means and methods of warfare that the enemy possesses or may possess behaves in an unwise or even in a criminal manner, but this applies to politics even more than it does to war. In politics it is harder to forecast what methods of warfare will be applicable and useful to us under certain future conditions.

"Unless we master all means of warfare we may suffer grave and even decisive defeat if changes in the position of the other classes that do not depend on us bring to the forefront forms of activity in which we are particularly weak. If, however, we master all means of warfare we shall certainly be victorious because we represent the interests of the really advanced and really revolutionary class even if circumstances do not permit us to use weapons that are most dangerous to the enemy, weapons that are most swift in dealing mortal blows.

"Inexperienced revolutionaries often think that legal methods of struggle are opportunistic because in this field the bourgeoise has most frequently (especially in peaceful non-revolutionary times) deceived and fooled the workers and that illegal methods of struggle are revolutionary. But that is not true.

"What is true is that those parties and leaders are opportunists and traitors to the working class who are unable or unwilling (don't say you cannot, say you won't!) to

adopt illegal methods of struggle in conditions such as those which prevailed for example, during the imperialist war of 1914 to 1918 when the bourgeoisie of the freest democratic countries deceived the workers in the most insolent and brutal manner forbidding the truth to be told about the predatory character of the war but revolutionaries who are unable to combine illegal forms of struggle with every form of legal struggle are poor revolutionaries indeed."

This admonition of Lenin with respect to tactics counselled using all methods both illegal and legal with which to accomplish the revolution, the change from capitalism to Communism; is that correct? A. Yes, it was used very well in the Fascist countries by the Communists during the war. I would like to add that I have used this pamphlet as a text book many times and I have never used that section as applicable to the United States.

There are many other sections in there which are applicable to the United States but it never occurred to me to use that section because I knew it didn't apply to the United States.

It refers to conditions like under czarism or Fascism of other reactionary despotic regimes where it is impossible to make a fight through the democratic process, and Communists under those conditions did what the average American worker did before unions were legal.

It was illegal to belong to a union so they had to join unions secretly and function illegally until such time as they were strong enough to come out in the open and function as a legal trade union. The same principle applies in countries where the democratic process is not permitted to use illegal and underground methods; and Communists have used these underground methods as an ally of the United States Government during the war and, I understand, helped to save American lives by such illegal methods.

Q. May I invite your attention that immediately following this passage Mr. Lenin in this document refers to the main task: "The main task of contemporary Communism in Western Europe and America is to learn, to seek, to find, to correctly determine the specific path or the particular turn of events that will bring the masses right up against the real last decisive and great revolutionary struggle," and then he goes on to talk of taking England,

for example; hence his admonition as to the use of any and all means, both legal and illegal was apparently pointed not only to the reactionary countries you mentioned but to Western Europe, America and England. A. Yes.

Q. Is that not correct? A. His admonition was that Communists should learn the specific path that it would take in each country and we determined for ourselves that obviously the specific method in America is not based on the Russian experience exclusively.

I might add that if I would have attempted to teach that doctrine that you have quoted as applicable to the United States, the members of the American Communist Party, they would have put me down either as a fool or a provocateur.

Q. I further invite your attention to the fact that in the same passage the admonition of Lenin to all Communist Parties, and referring particularly to the Communists in Great Britain, was to use parliamentary elections not for the purpose of getting seats in Parliament but for the purpose of using it for agitation only. This is apparently a specific instruction for use in a democratic country; is that correct? A. No, we have never had such instructions and I have never heard of such instructions.

Q. You have stated that you are familiar with this document? A. Yes. Of course we understand the English language differently, obviously. We put people forward for office because we want to reach the greatest number of people for our program, to win them to support our program; and when enough of them support our program to put it into effect as a government power.

If our only purpose was agitation, that would be a futile perspective. Besides, there is nothing illegal about political parties using their positions in public office for agitation. All political parties do and we do also.

Q. May I invite your attention to page 93 of this pamphlet entitled, Left Wing Communism, whereon appears the following: "It is difficult to insure that the Communist parliamentarians do not play the bourgeois parliamentary game of skittles but concern themselves with the very urgent work of propaganda and organization of the masses."

And referring to page 92 he sets forth: "You think, my dear boycottists and anti-parliamentarians, that you are 'terribly revolutionary' but in reality you are fright-

ened by the comparatively small difficulties of the struggle against bourgeois differences within the working class movement. Whereas your victory, that is the overthrow of the bourgeoisie and the conquest of political power by the proletariat, will create these very same difficulties on a still larger and infinitely larger scale."

Was it not the teaching of "Left Wing Communism, an Infantile Disorder," that parliamentarianism is not to be used to get seats in Parliament solely but principally for the purpose of talking to the masses in order to bring them on forward to a revolutionary struggle? A. No. All the Communist Parties that are in the position of coming into power use the elections in order to get enough support to become the government party. Most of the European parties are in that position now and we hope some day to be too.

It is ridiculous to speak about our wanting to run for office only for agitational propaganda.

Q. Stalin in Problems of Leninism, Exhibit No. 32, on page 19 asks: "Can such a radical transformation of the old bourgeois system of society be achieved without a violent revolution without the dictatorship of the proletariat?" and his answer is obviously not. "To think that such a revolution can be carried out peacefully within the framework of bourgeois democracy which is adapted to the domination of the bourgeoisie means one of two things.

"It means either madness and the loss of normal human understanding or else an open and gross repudiation of the proletarian revolution." And then he goes on to say: "Let the revolutionary proletariat first overthrow the bourgeoisie, break the yoke of capital, break up the bourgeois state apparatus, then the victorious proletariat will speedily gain the sympathy and support of the majority of the toiling non-proletarian masses by satisfying their wants at the expense of the exploiters."

Is that a fundamental Leninist position? A. Yes, based on the Russian experience and under similar circumstances. But, as I have said many times before, he did not forsee at the time that under certain conditions as after the second world war that other paths towards Socialism would be found.

Q. But before the second world war with only the Russian example it was the teaching of Lenin that the Soviet

method would have to be used; is that correct? A. No, on the contrary. I stated many times that Lenin has above all emphasized that the Soviets were a specific and peculiar Russian form of the development to Socialism.

Q. As we reviewed the principle of Leninism, the state in his teachings is an organ for the repression of the proletariat in capitalist countries; is that correct? A. I have answered that many times already. yes.

Q. And in his statement appearing in State and Revolution: "That today both in England and in America the pre-condition of any real people's revolution is the breakup, the shattering of the ready-made state machinery", refers to the capitalist state in America; is that correct? A. That was his opinion at that time, yes.

Q. And this document when circulated carried this opinion of his to the people who were in the Communist Party in the United States; is that correct? A. Yes, and outside the Party, too.

Q. On page 40 Lenin states: "To decide once every few years which member of the ruling class is to repress an oppressed people through Parliament, this is the real essence of bourgeois parliamentarianism, not only in parliamentary constitutional monarchies but also in the most democratic republics.

"But if the question of the state is raised, if parliamentarianism is to be regarded as one institution of the state, what then from the point of view of the tasks of the proletariat in this realm is to be the way out of parliamentarianism?"

Is that the classic Leninist view of bourgeois parliamentarianism? A. Yes. What he was trying to say there is that when, let's say the two major parties in America have had fundamentally the same program, no matter which party was elected to office the same class was in power dominating the country.

However, it is quite possible that a change in the political situation could change the situation relatively even under capitalism. It would be possible that if let us say a third party, a people's party, was elected in a presidential election that the people would have far more representation and democratic expression in such a government even under capitalism than they possibly could under the leadership of the Republican and Democratic Parties that speak for big business.

Q. But in the Leninist position the capitalist state is identified as an organ of the capitalists? A. Yes.

Q. And he states that the Parliament or the Congress can only be used by the people as to which representatives of the ruling class they will elect to govern them; is that correct? A. Yes, but that isn't its only function. I might state that during the Roosevelt period even the capitalist state under certain social and political conditions was forced to grant a great many concessions to the labor movement and to the unemployed and generally to adopt a number of measures which were beneficial to the people both in the form of political democracy as well as in the form of social security.

The point here is that nothing is static, that everything is relative. That at certain periods as in the Roosevelt period even this government was far more responsive to the pressure and will of the masses because the labor movement and the people fought for those rights than they are at the present time.

So that this concept that you are speaking about is not a static concept and is not permanent for all time to come but is subject to change under pressure as it is many times when the people are able to get some of their desires recognized and accepted in a democratic republic under capitalism.

Q. In regard to the classic Marxist position as set forth in these documents, it was his view that capitalist democracy was venal and rotten parliamentarianism; is that correct? A. That was his view, yes.

Q. And that was the view of Lenin as circulated and as distributed and as the 1938 Constitution of the Communist Party was dedicated to? A. Not to that quotation, no.

Q. On page 43 in State and Revolution Lenin states: "Overthrow the capitalists, crush with the iron hand, the armed workers, the resistance of these exploiters. Break the bureaucratic machine of the modern state."

Was that the teaching of Lenin with respect to the capitalist state to overthrow the capitalists? A. Yes, but even that slogan could be realized by parliamentary means provided that the minority would submit to the majority if the majority of the people supported a government that proposed to take such steps in a constitutional manner.

Q. And in referring to the proletariat taking or seizing power, did not Lenin contemplate the seizure of power by

means of a general mass strike, a political strike? A. No. In Russia it didn't take place by a strike but it took place by an armed uprising after a majority of the people supported the Communist Party.

Q. Is it the classic Leninist position that after capitalists were overthrown in a particular country they would remain stronger than the proletariat which overthrew them and that it would be necessary to organize the state in such a manner as to crush the resistance of the bourgeoisie? A. I don't think he ever said that they would be stronger than the proletariat, particularly after the proletariat came into power.

Q. In the Foundations of Leninism Joseph Stalin on page 24 sets forth the following: "Secondly, where and by whom has it ever been proved that the parliamentary struggle is the principal form of struggle for the proletariat? Does not the history of the revolutionary movement show that the parliamentary struggle is only a school for and an aid in organizing the extra parliamentary struggle of the proletariat; that under capitalism the fundamental problems of the working class movement are solved by force, by the direct struggle of the proletarian masses, their general strike, their insurrection?"

Is that not the classical Leninist-Stalinist position with respect to how power was to be seized? A. Not by taking a sentence like that out of a context of the whole work because for every such quotation I can show you a dozen where Marxists-Leninists warn against playing around with such things as insurrections and military conspiracy and so on.

Q. On page 54 Lenin states: "The dictatorship of the proletariat cannot arise as a result of the peaceful development of bourgeois society and of bourgeois democracy. It can arise only as a result of the smashing of the bourgeois state machine, the bourgeois army, the bourgeois bureaucratic machine and the bourgeois police."

Is that a fundamental Leninist doctrine? A. That is a generalized conclusion from the experience of the Russian revolution.

Q. However, on page 56 of Foundations of Leninism Stalin sets forth: "In other words, the law of violent proletarian revolution, the law of the smashing of the bourgeois state machine as a preliminary condition for such a revolution, is an inevitable law of the revolutionary movement in the imperialist countries of the world."

Now how do you reconcile that with your statement that you have just given? A. I don't have to reconcile it. I have never taught that to mean that it applies to the United States because I never believed that the transformation to Socialism would take place in the exact form in the U. S. A. as it did in any other country.

Q. But would you say that this passage in the Foundations of Leninism would tend to teach that the imperialist countries of the world had to be changed to Communism through a violent proletarian revolution? A. No, it conceivably could occur that these changes could take place by other forms as well.

Q. I appreciate that it could conceivably take place. What I am interested in is the teaching of Lenin and Marx with respect to this matter. A. We never tried to establish a blueprint as to just what form it will take in the United States. That is one of the essences of Marxist science that you seem to fail to grasp, that simply because a generalized conclusion is established from past history this does not mean that that can apply in all cases and in all circumstances.

Q. But I thought we understood A. (Interposing) And the best proof of that is that many recent developments were not at all foreseen in some of the basic Marxist-Leninist classics.

Q. I thought we understood that the Leninist position is that the state is an organ of the capitalists for the suppression of the proletariat? A. Yes, I have testified to that effect many times.

Q. And it is so in the United States as well as in other countries? A. Yes.

Q. And in the United States as well as in other countries Lenin and Stalin taught that a violent overthrow of the capitalists and their governments was necessary in order to establish the state of the proletariat, the dictatorship of the proletariat; is that not their teaching? A. Only under certain conditions. Only under the conditions that the capital class would not accept the verdict of the majority of the people as expressed by their democratic processes, and I have testified to that many times.

Q. But isn't the position of the Communist International as it appears on page 36 that "the bourgeoisie resorts to every means of violence and terror to safeguard and strengthen its predatory property and its political domina-

tion, and like the feudal nobility of the past, the bourgeoisie cannot abandon its historical position to the new class without a desperate and frantic struggle"? A. That's right. That is what happened in Spain when a constitutional republic was established and the Fascists and monarchists organized a revolution to overthrow it. That is the kind of violence we are talking about, and if that violence did not occur, then the transition to Socialism could take place peacefully.

Q. May I invite your attention to the fact that the Communist International in its Program laid down the principle that the bourgeoisie cannot abandon its historical position to the new class without a desperate and frantic struggle. Is that not a teaching of the Communist International to all sections? Is that not so? A. It is not a teaching. It is a generalized conclusion. That is perfectly obvious. You don't have to belabor the point.

Q. I mean irrespective whether as you say the Communist Party in the United States chose to accept this, the teaching of the Communist International was that the bourgeoisie would use force and violence in trying to retain its historical position; is that correct? A. Yes.

Q. And one organ of the bourgeoisie is the police in the state and the army; is that correct? A. Yes.

Q. And is it the teaching of the Communist International that all elements of bourgeois power including the bourgeois armies, the police, the hierarchy, the judiciary, the parliaments, all had to be violently overthrown? Is that the teaching of the Communist International? A. That is exactly what Lincoln's government did against the armies of the South and the Confederate Government of the South. They smashed the armies of the ruling classes of the South because they rose up against the democratic will of the majority of the American people.

That is what Lenin teaches us and that was borne out by the experience of the American Civil War and by a hundred other experiences.

Q. But even if that be so, is it not the teaching of the Program of the Communist International that force and violence would have to be used at such time as the struggle for state power arose between the capitalist class and the proletariat? A. No, not unless the bourgeoisie refused to submit to the majority of the American people.

Q. But is it not the teaching as I have just quoted you that the position of the Communist International is that the bourgeoisie must use force and violence? A. No, it is not the teaching that they must.

Q. In other words, you say that what appears— A. (Interposing) There are many Marxists that have written and spoken about the theoretical possibilities that under certain conditions Socialism could be achieved by peaceful means and that possibility was never ruled out by Marxists even though the exact form it would take was not foreseen. And its teachings were never written for all time either.

They were written for that particular period and for the perspective that they saw at that time.

Q. But the perspective as the Communist International saw it in 1928 was that the bourgeoisie would not abandon its position without force and violence having to be used; is that correct? A. On a general world scale, yes.

Q. And the Communist Party in the United States participated in the Congress which promulgated this Program; is that correct? A. Yes.

Q. And at that time that was the position of the World Congress of the Communist International, that force and violence would have to be used in the process of achieving the dictatorship of the proletariat? A. Yes, but why don't you ask me how we interpreted this when we reported the Program of the Communist International to the membership of the Communist Party?

Q. Irrespective of how it was reported, what I am interested in at this moment is the teaching of the Communist International, not what you say you conveyed to the membership. A. There is as much teaching in our oral words as there is in our written words.

Q. But at this point we are agreed, are we not, that the Program of the Communist International states that force and violence will have to be used when the transition is made from capitalism to the intermediary state, the dictatorship of the proletariat; is that correct? A. No, not the way you formulated it. Not unless the bourgeoisie refuse to submit to the majority of the American people when they express themselves in a democratic manner.

Q. But in 1928 it was the opinion of the Communist International that force and violence would have to be used?

A. If the bourgeoisie refused to submit to the majority of the American people when they expressed their democratic will.

Q. And the position of the Communist International was that they would refuse to submit; isn't that correct? A. No, they didn't predict anything of the kind.

Mr. Englander: I submit to the Presiding Inspector that your questions are argumentative and I object to them on that ground.

Mrs. King: This is not cross examination.

Inspector Zimmerman: I appreciate that.

Mr. Roberts: May I point out that the Presiding Inspector is the one who will have to make the findings of fact or conclusions of law or at least propose them, and he is the one who has to satisfy himself as to just what the Communist Party did stand for. I therefore think that it is quite proper for him to ask leading questions or whatever questions he deems necessary in order to get at the facts that he will have to have at his disposal.

Inspector Zimmerman. And I appreciate the fact that I, as Presiding Inspector, must have the evidence as I understand it and I am attempting to reach my own understanding.

I concur with the Examining Inspector in the remark that he made that I may ask leading questions or rather argumentative questions.

Earlier you stated in connection with the examination by the Examining Inspector that force and violence were never contemplated or never even considered necessary in relation to the United States. Yet at this Congress the representatives of the United States Communist Party agreed on a program which said that force and violence would have to be used in the process; is that correct?

The Witness: I never said anything of the kind. You are misquoting me.

By Inspector Zimmerman:

Q. May I change— A. (Interposing) You are quoting me as saying that force and violence was never contemplated. I never said anything of the kind.

Q. In other words, you did not tell the Examining Inspector that the American Communist Party never con-

templated force and violence? A. I said that force and violence would not be of our doing, and don't put words into my mouth. I didn't say that no force and violence would occur, but I said it would occur if it was started by those who refused to submit to a majority of the American people.

Q. On page 34 of State and Revolution Lenin states: "That the pre-condition of any real people's revolution is the breakup, the shattering of the ready-made state machinery, both in England and in America."

And on page 35 he says: "To shatter this machinery, to break it up, this is the true interest of the people of its majority, the workers and most of the peasants; this is the preliminary condition of a free union of the poorest peasantry with the proletariat."

And he goes on to state: "With regard to Marx, that Marx stated that the breaking up of the state machinery is demanded by the interests both of the workers and of the peasants."

Is that a fundamental Leninist teaching, that the state machinery of the capitalist state must be broken up, must be shattered? Is that the import of the Leninist position as stated there? A. Not necessarily. That could be interpreted as reorganized, democratized, changed.

Q. Do you know whether that was Lenin's intention to so use the language so as to be saying one thing which appears to be clear but yet intending another which could be expressed by other language? A. It is quite possible in the translation but I would rather leave it that my interpretation of that is that applied to American conditions it could mean reorganized, democratized and changed.

Q. On page 35 Lenin goes on to discuss: "What is to replace the shattered state machinery?" and he in this passage says that the Commune is to replace it. Then the legislative organ of the capitalist state was not to be kept in the reorganized society under the Communists according to Lenin; is that correct? A. This word "Commune" is a very loose term that can mean almost anything. It could mean a government that was headed by Communists; it could be an apparatus that was administering a Socialist economy, and it could mean almost anything.

Q. In relation to the organization of national unity in State and Revolution, Lenin sets forth that Marx was

speaking in certain quotations which he gives of the destruction of the old bourgeois state machinery which exists in all bourgeois countries and then he goes on to say that Marx agrees with Proudhon in that both he and Proudhon stand for the destruction of the contemporary state machinery.

And then in relation to centralism, the question of centralism he says: "Will it not be centralism if the proletariat and the poorest peasantry take the power of the state in their own hands, organize themselves freely into Communes and unite the action of all the Communes in striking at capital and crushing the resistance of the capitalist in railways, factories, land and so forth, to the entire nation, to the whole of society?"

And then in regard to the destruction of the parasite state on page 47— A. (Interposing) May I interrupt? You are reading one quotation after another and asking me for an opinion on all of them. May I interject before you go to the next question?

Q. No, I haven't finished my question. If you want to go back there after— A. (Interposing) I think it is highly irregular to read two or three quotations and ask me for one opinion on all of them. I suggest you let me express my opinion on that quotation before you go to another one.

Q. Let me go on to the next one. A. Does it follow immediately?

Q. No. A. Well, I will forget what I wanted to say and I would like to say something about this.

Q. All right, go ahead. A. It sounds to me like this could very well describe what is happening in many Eastern European countries under strictly parliamentary methods.

Q. On page 47 Lenin states in relation to a quotation "—breaks the modern state power which was a parasitic excrescence, its amputation, its destruction, the now superseded state power, these are the expressions used by Marx regarding the state when he appraised and analyzed the experience of the Commune." A. May I comment on that before you go on to the next quotation? Are you asking my opinion of these or just simply reading them to get them into the record?

Q. No, if I may, one more and I will— A. (Interposing) I would rather comment on this one because I may not remember the points there.

Q. All right, go ahead. A. If the purpose of reading this was to ask my opinion I will give it, but if it is just to put it in the record, then I am willing to save time and you can go ahead.

Q. I am interested in getting the view of Lenin with respect to the breaking of the state, the destruction of the bourgeois state machinery. That is what I am interested in getting. I was merely quoting in order to get the sense of what Lenin has to say about the destruction of the state machinery. A. Then I gather you are just reading out loud. I thought you were asking me a question.

Q. I was going to ask a question after I had quoted you these passages as indicating to me what Lenin had to say about the state machinery and its shattering and its breaking up. A. Well, I object to having you skip from quotation to quotation and then asking me to express an opinion on all of them. If you want my opinion on these quotations I will give them.

If you are just reading them for the record, then I will just sit here and listen.

Q. Let me ask you this: Is it not the position of Lenin that the capitalist state had to be done away with and another state organ, the Commune or the Soviet, put into effect in its place? A. No, not in all cases.

Q. You say that this is not the Leninist position? A. No, not in all cases.

Q. Is there anything in State and Revolution which would bear you out? A. You practically read the whole thing.

Q. Well, is there anything in what I quoted which would bear you out? A. No, except that you refuse to grasp the essence of this theory and simply insist on looking for words like "violence" and "smashing the state" and so on.

That isn't my idea of a political or a theoretical discussion. That is vulgarizing it to the level of a policeman looking for evidence.

Q. Now you agree with me, do you not that Lenin contemplated that such would be necessary in at least some places? A. Under certain conditions, yes.

Q. Then the teaching of Lenin is that under certain conditions, as you say, it will be necessary for that to be done? A. Yes, and it was done under those conditions, particularly in Russia.

Q. Now what I am trying to ascertain is, is there any limitation in the Leninism which I have before me which limits it to certain places or certain conditions or does it set it down as a controlling principle to govern in all cases where the dictatorship of the proletariat comes into being? A. It is not applicable to all cases.

Mrs. King: Off the record.

(Discussion off the record).

By Inspector Zimmerman:

Q. On page 59 in State and Revolution Lenin emphasizes that Engels repeated in a particularly emphatic form the fundamental idea which runs like a red thread through all of Marxist work, namely, "that the democratic republic is the nearest approach to the dictatorship of the proletariat. For such a republic without in the least setting aside the domination of capital and therefore the oppression of the masses in the class struggle inevitably leads to such an extension, development, unfolding and sharpening of that struggle that as soon as the possibility arises for satisfying the fundamental interests of the oppressed masses, this possibility is realized inevitably and solely in the dictatorship of the proletariat in the guidance of these masses by the proletariat".

Is it not Lenin's position here that the dictatorship of the proletariat solely is the manner in which the proletariat will achieve its control? A. Not if you consider the dictatorship of the proletariat as a form of government. It does represent a relationsihp of forces which would mean that the working class and its allies are the ruling forces during that transition period.

But as I have already indicated subsequent events have shown that the transition period could take other paths.

Q. On page 71 Lenin sets forth in State and Revolution that earlier the question was put thus: "To attain its emancipation the proletariat must overthrow the bourgeoisie, conquer political power and establish its own revolutionary dictatorship."

Now the question is put somewhat differently: "The transition from capitalist society developing towards Communism, toward a Communist society, is impossible without a political transition period and the state in that period can only be the revolutionary dictatorship of the proletariat."

Does not Lenin here state that the only means of effecting the transition is the dictatorship of the proletariat? A. Yes, if you understand that to mean a certain relation to forces and not a specific form of government.

Q. Is it not correct that in the Lenin position the Commune or the Soviet was to be the legislature during the period of the dictatorship of the proletariat? A. The Soviet in Russia, yes but the term "Commune", as I said before, is a very vague term that could mean any form of government that administers or rules in a Socialist economy. For that matter it was used in connection with the Paris Commune where it didn't contemplate establishing a Socialist system of society.

Q. But the Communist International in its Program as we have seen on page 37 states that it commits itself in its Program to achieving the dictatorship of the proletariat; isn't that correct? A. Yes.

Q. And that is what it taught to all the sections of the Communist International; isn't that the effect of the Program to the sections of the Communist International? A. Yes, provided you understand that the dictatorship of the proletariat doesn't mean what you think it does.

Q. Well, apart— A. You have used it interchangeably with the terms "Soviet" and "Commune", and that is why I insist on that point.

Q. Then on page 74 Lenin states: "Again during the transition from capitalism to Communism—" that is of State and Revolution"—suppression is still necessary. But it is the suppression of the minority of the exploiters by the majority of the exploited.

"A special apparatus, a special machinery for suppression, the state, is still necessary but this is now a transitional state. No longer a state in the usual sense for the suppression of the minority of exploiters by the majority of the wage slaves of yesterday is a matter comparatively so easy, simple and natural that it will cost far less bloodshed than the suppression of the risings of slaves, serfs or wage laborers and will cost mankind far less."

And then he goes on to state that "the people can suppress the exploiters even with very simple machinery, almost without any machinery, without any special apparatus, by the simple organization of the armed masses—" then he goes on to say "—such as the Soviets of workers and soldiers' deputies."

Was it not then the teaching of Lenin that the armed masses would be organized in the Soviets of workers and soldiers' deputies? A. Yes, he saw the perspective for the Russian revolution there.

Q. And wasn't this the teaching that he communicated to all Communists all over the world wherever this document was circulated and taught? A. Yes, but he didn't go out and say, "Organize Soviets in the Russian fashion, organize armed uprisings in the Russian fashion", if that is what you are getting at.

Q. What I am getting at, Mr. Schneiderman, is that Mr. Lenin said that there was only one way in which it could be done and that is by setting up the dictatorship of the proletariat, by having the armed masses through the Soviets of workers and soldiers' deputies to suppress the masses.

That is his teaching apart from the understanding of yourself as to what the Communist Party in the United States advocated. In other words, what I am concerned with here is the teaching of Lenin as he taught it to Communists. A. This was a program that he wrote on the eve of the Russian revolution and was aimed at the method of achieving the revolution.

Q. And doesn't the Problems of Leninism and the Foundations of Leninism say that this has world application? A. Yes, but not necessarily in the same exact and specfiic form.

Q. But is that not the teachings of all these documents combined wherein they teach Communists that this is the means whereby the Communists will come into power? A. Not necessarily.

Q. I appreciate that it is not necessarily so, but is that not his teaching? Is that not what he tried to convey? Is that not the teachings that Mr. Stalin tries to convey in his further development or explanations with regard to Leninism? A. Under similar conditions, yes, but it doesn't mean that this teaching must be applied under all circumstances and in all countries.

Q. Here may I quote to you what appears to me to be a very trenchant passage from State and Revolution which appears to be the crux of the issue in the case and which my questions before have led up to—and I quote here: "Democracy is a form of the state—one of its varieties. Consequently like every state it consists in organized systemic application of force against human beings. This is on the one hand.

"On the other hand, however, it signifies the formal recognition of the equality of all citizens, the equal right of all to determine the structure and administration of the state. This in turn is connected with the fact that at a certain state in the development of democracy it first rallies the proletariat as a revolutionary class against capitalism and gives it an opportunity to crush, to smash to bits, to wipe off the face of the earth, the bourgeois state machinery —even its Republican variety: the standing army, the police, the bureaucracy; then it substitutes for all this a more democratic but still a state machinery in the shape of armed masses of workers which becomes transformed into universal participation of the people in the militia."

Is that not the essence of the teaching of Lenin, this paragraph which I have quoted to you from State and Revolution? A. That describes the broad sweep of the historical process but specifically it applies to the perspective of the Russian revolution.

Q. And yet in this being circulated and distributed here in the United States, it is the teaching of Lenin which they are to follow if his teaching is to be taken as the law; is that right? A. No, it is not to be taken as the law.

Q. In relation to Kautsky and his errors which Lenin states are errors in State and Revolution, on page 90 he says that "Kautsky evaded the question of the state and throughout Kautsky's pamphlet he speaks of the conquest of state power and nothing else. That is, a formulation is chosen which makes a concession to the opportunists since it *admits* the possibility of the conquest of power without the destruction of the state machinery."

Here is it not the effect of Lenin's teaching that the conquest of power must be accompanied by the destruction of the state machinery? A. Under czarism, yes.

Q. Is it not his teaching that the destruction of the state machinery is a necessary concomitant of the conquest of power, the teaching which this book conveys to Communists in the United States? A. Under conditions of the Russian revolution, yes.

Q. But this book does not in its terms limit itself to the conditions of the Russian revolution; isn't that correct? You have not in any way shown me where in this pamphlet circulated and distributed by the Communist Party of the United States it says that it is limited to the Russian situa-

tion. A. Well, I might draw a parallel with the Communist Manifesto. The government was trying to prove all kinds of sinister purposes in the Communist Manifesto because it spoke about the revolutionary overthrow of all existing social conditions and finally I understand that it has finally come about to accept the position that it is placing itself in a rather foolish position by arguing that publishing and reading and studying the Communist Manifesto, which is a great historical document, means that this document is in any way telling people today what they should do when it is speaking about the conditions of the revolution of 1848.

Q. On the contrary. A. I think the same thing applies to this pamphlet. There is nothing sinister about the circulation of this pamphlet. It is a great historical document. It is a classic and it is studied not only by Communists, I have seen it studied in schools and I have studied it myself when I went to school as one of the documents under discussion in classes in political economy and history and so on.

Q. But may I point out to you, Mr. Schneiderman, that the Government's determination with respect to the Communist Manifesto was because of the contents of the Manifesto itself and this document, the State and Revolution, examined in its entirety of itself speaks for the breaking up of the capitalist state, which we have already agreed includes the United States, and substituting in its place a Soviet power behind which are the Soviets of workers and soldiers' deputies.

That is his teaching in this book and that is what I am concerned with in my interrogation of you at this point. A. I don't see any essential difference between this and the Communist Manifesto as a historical document. He wrote this for the Russian revolution in the same way that Marx and Engels wrote the Communist Manifesto for the revolutionary period of 1848.

We are circulating and discussing these documents as historical documents bearing out certain theories that we are trying to advance and that is all.

Q. But on page 12— A. (Interposing) And we are not subscribing to every word in there as necessarily applicable to the United States at this time when it was written about and for the period of the Russian revolution of 1917.

Q. I appreciate your point of view which was thoroughly gone over in the examination of you by the Examining In-

spector. As I pointed out to you, I am interested in this point in the position of the Communist International since that is one of the issues in this case.

Now in the pamphlet Problems of Leninism, Stalin, on page 12, states: "Either the peasant question is the core of Leninism and in that case Leninism is not suitable, not obligatory for developed capitalist countries, or the core of Leninism is the dictatorship of the proletariat and in that case Leninism is the international doctrine of the proletariats of all lands, is suitable and obligatory for all countries without exception, including those where capitalism is developed."

Now as we have reviewed State and Revolution, Lenin apparently states that the dictatorship of the proletariat is a necessary element in establishing Communism. In Problems of Leninism, Stalin apparently comes to the same conclusion.

Now here are teachings, are they not, advocating setting up Soviets, smashing state machinery in capitalist countries and these documents represent Leninism? Is my view of that correct? A. Yes, except that its interpretation must be understood under certain conditions.

Q. But then I, as a man of reasonable intellect and reading this and taking the words as what they appear to mean as I have gone over them with you, it seems that the words all point in the direction of smashing of the bureaucratic machinery in all capitalist countries. So then the teaching of Leninism is that the capitalist state must be smashed in establishing a dictatorship of the proletariat.

Do you agree that that is the teaching of Leninism in these documents which we have in evidence? A. Yes, but the statements of the Communist Party are what we get out of Leninism as applicable to the United States, and the record of the Communist Party demonstrates that we do not believe that all of this is necessarily applicable to the United States—the programmatic statements of the Communist Party.

Q. Now on page 53 of State and Revolution, Lenin quotes a paragrapn from Engels in which he speaks about revolution stating that "it is the most authoritative thing possible and it is an act in which one section of the population imposes its will on the other by means of rifles, bayonets, cannon, that is, by highly authoritative means,

that you have testified in this proceeding I desire to place you under oath again.

PETER HARISIADES, called as a witness in his own behalf having been duly sworn, was examined and testified further as follows:

Inspector Zimmerman: You are informed that if you knowingly or wilfully give false testimony or tell lies in this proceeding you may be prosecuted for perjury, the penalty for which, upon conviction, is imprisonment for not more than five years and a fine of not more than $2,000. Do you understand that?

The Witness: Yes.

Inspector Zimmerman: You are informed, first, that under a change in the regulations governing the conduct of immigration hearings it is necessary that all Respondents be advised of certain privileges authorized by law to be vested in the discretion of the Attorney General.

The privileges are first, suspension of deportation. That is, the Attorney General may permit a Respondent to remain here provided that his deportation would result in serious economic detriment to a wife, minor child or parent who must be a citizen or a legally resident alien.

There is another privilege entitled the Voluntary Departure whereby an alien may be permitted to leave the country without being deported; in order to be considered for this privilege a Respondent must show good moral characted for five years.

In connection with Voluntary Departure there is the additional privilege of pre-examination which is a procedure whereby a Respondent may leave this country to proceed to Canada to get a proper immigration visa and return to the United States.

However, I must also advise you that under Section 19-D of the Immigration Act of 1917, as amended, these privileges which I have just explained are not available to someone who is found deportable on such charges as have been in the warrant of your case or have been lodged at this proceeding.

Do you understand all of what I have just stated?

Mrs. King: In view of the fact that the Respondent in this case is a legal resident of the United States, he has no need of any discretionary relief. If the charges are made out he cannot use the relief and if the charges are not made out he can become a citizen of the United States.

The Witness: I do not wish to apply for discretionary relief.

Inspector Zimmerman: Mr. Examining Inspector, there are a few questions that I want to ask the Respondent in relation to the testimony which was adduced when I was the sole Inspector in this case. However, do you at this point desire to question the Respondent in any respect?

Mr. Roberts: I do not, Mr. Presiding Inspector. I have no objection to your questioning the Respondent.

Inspector Zimmerman: Mrs. King, do you desire to ask the Respondent any questions?

Mrs. King: No.

By Inspector Zimmerman:

Q. Mr. Harisiades, the principal point I wish to clarify from you is that you originally testified that the 1938 Constitution, which is in evidence as Exhibit No. 4, was the only written Constitution that the Communist Party of the United States had.

Exhibit No. 18, the Membership Book in the Communist Party, indicates that there were other statutes of the Communist Party previous to that time and, as you have heard Mr. Schneiderman testify and, I believe, one of the other witnesses, there were such statutes though Mr. Schneiderman said they were drafts.

Do you have knowledge of these statutes as set forth in Exhibit No. 18 having been in effect in the United States prior to 1938? A. No, I have got no idea. I don't recall that I ever read them.

Q. You are advised that your counsel will be furnished with a copy of the proposed findings, recommendations and conclusions made in your case and she will be given a reasonable length of time within which to make answer and submit a brief if desired.

and the victorious party is inevitably forced to maintain its supremacy by means of that fear which its arms inspire in the reactionaries."

And then Lenin says: "In thus formulating the question Engels takes the bull by the horns. Ought not the Commune—"referring to the French revolution"—have made important use of the revolutionary power of the state?" That is, have the proletariat armed and organized as a ruling class.

Now here in clear language Lenin has reference to an armed revolution; is that correct, in this passage? A. Yes.

Q. Does anywhere in this document, State and Revolution, Lenin say that such a use of revolution is not the sense in which he was using it? A. No.

Q. Therefore, when this document is circulated an ordinary person reading it would take the term "revolution" to at least include that use of the term which Lenin himself says in such clear language; is that correct? A. Yes, but this is only one document in the vast store of the Marxist-Leninist library and anyone who has mastered the Marxist science knows that you cannot take literally a quotation like that and attempt to apply it in an indiscriminate manner as a rigid and inflexible provision for all time and for all places under all circumstances.

Q. But even accepting that, this document represents a teaching of Lenin which is the essence or at least part—I withdraw that.

Mrs. King: I object to this line of questioning now as repetitious.

Inspector Zimmerman: Objection overruled.

The Witness: I have answered most of his questions half a dozen times, exactly the same questions and the same answers.

Inspector Zimmerman: I ask that you be patient with me. Perhaps I am a little obtuse. I am trying to get my best understanding of this document with your help at this point.

The Witness: I am not trying to evade any questions. I just want to catch a train and I have missed two already.

By Inspector Zimmerman:

Q. On page 16 in Problems of Leninism by Joseph Stalin there appears the following: "The bourgeois revolution

limits itself to substituting one group of exploiters for another in the seat of power and therefore has no need to destroy the old state machine. Whereas the proletarian revolution removes all groups of exploiters from power and places in power the leader of all the toilers and exploited, the class of proletariat and therefore it cannot avoid destroying the old machine and replacing it by a new one."

This then represents Stalin's view of that matter; is that correct? A. Yes.

Q. And in circulating this document among the Communists in the United States this document teaches them Stalin's position with respect to that point? A. Well, that isn't the only way we teach them Stalin's position. When we discuss it we make perfectly clear that this doesn't mean that we are proposing to destroy the bourgeois state apparatus here.

Q. And then when Mr. Stalin on page 19 of the same book, Problems of Leninism, asks: "Can such a radical transformation of the old bourgeois system of society be achieved without a violent revolution, without the dictatorship of the proletariat?" his answer is obviously not. "To think that such a revolution can be carried out peacefully within the framework of bourgeois democracy which is adapted to the domination of the bourgeoisie means one of two things. It means either madness and the loss of normal human understanding or else an open and gross repudiation of the proletariat revolution."

In this passage is it not Mr. Stalin's teaching that a violent revolution is necessary to transform the old bourgeois system of society to the new system under the Communists? A. Under certain conditions, yes.

Q. But Mr. Stalin in this book doesn't limit it to certain conditions, does he? A. Well, he bases himself on the experience of the Russian revolution.

Q. But this document standing by itself and read by a Communist in the United States would have that import, would it not? A. We never teach Marxism by reading a quotation and saying this is it. That is just nonsense. We try to explain it. We try to get at the essence of it behind the words and we try to explain its application to the United States.

Q. On page 39 of Problems of Leninism Stalin states that "the concept of the dictatorship of the proletariat

is a concept of the state. The dictatorship of the proletariat must necessarily include the concept of violence?

"There is no dictatorship without violence if dictatorship is to be understood in the strict sense of the term." Then it is Stalin's position that Leninism sets the dictatorship of the proletariat as a state concept and one based on violence; is that a correct interpretation of Stalin's position in the matter? A. Yes, but with one qualification. I don't think that there is a real contradiction between this and his formulation that the dictatorship of the proletariat is not a form of government because the term "state" is used in a much broader sense than just the form of government.

Q. But it includes— A. (Interposing) In that sense I think that is correct.

Q. In quoting from Lenin in the same document, Exhibit 23, Stalin says: "First let the majority of the population while private property is still maintained, that is while the power and oppression of capital are maintained, declare itself for the party of the proletariat. Only then can it and should it take power.

"That is what is said by petty bourgeois Democrats who call themselves 'Socialists' but are really the henchmen of the bourgeoisie.

"But we say: Let the revolutionary proletariat first overthrow the bourgeoisie, break the yoke of capital, break up the bourgeois state apparatus, then the victorious proletariat will speedily gain the sympathy and support of the majority of the toiling non-proletarian masses by satisfying their wants at the expense of the exploiters."

And then he goes on: "In order to win the majority of the population to its side, Lenin continues, 'the proletariat must first of all overthrow the bourgeoisie and seize state power and secondly, it must introduce Soviet rule, smash to pieces the old state apparatus and thus at one blow undermine the rule, authority and influence of the bourgeoisie and of the petty bourgeois compromisers in the ranks of the non-proletarian toiling masses'." A. Who are you quoting there?

Q. Stalin is quoting Lenin and I am quoting Stalin quoting Lenin. In other words, we have both authorities agreeing; both Lenin and Stalin agree on this as a basic premise.

In other words, he differs with the petty bourgeois Democrats here by saying that the petty bourgeois Democrats say, "First let the majority of the population get behind the Communists".

He says, "No, that is not what we say. Let us first overthrow the bourgeoisie, break up the bourgeois state apparatus and then they can gain the sympathy of the masses by satisfying their wants at the expense of the exploiters". Is that the position of Lenin and Marx on that point? A. Of Lenin, yes. Not Marx.

Q. Lenin and Stalin? A. Yes, subject to the interpretation I have already given, and I might point out that if you read that too literally this would contradict the very experience that the Bolshevik Party had in Russia.

It is not true that they first seized power and then won the majority of the people. They first won the majority of the people before they took power.

Q. That may or may not be a true historical statement of fact. It is in part not in consonance with what Lenin and Stalin say about the manner in which they took power in Russia, but that is not in issue here.

What I am interested in is their teaching for Communists all over the world including the United States. Now in this document Stalin quotes Lenin with authority and says: "The proletariat must first of all overthrow the bourgeoisie and seize state power, introduce Soviet rule, and thereby by undermining the rule, authority and influence of the bourgeoisie, then it will be able to win the majority of the population to its side."

Isn't that the teaching of Lenin and Stalin on that point? A. Yes, subject to the interpretation I have given and the example I gave proves that you cannot take that too literally because the experience of the Russian revolution proves otherwise.

Q. On page 51 of Problems of Leninism, Stalin states: "Before entering upon decisive political actions the Party must by means of prolonged revolutionary work insure for itself the support of the majority of the working masses—" and here I am giving emphasis "—or at least the benevolent neutrality of the majority of the class otherwise there would be absolutely no meaning in Lenin's proposition that a necessary condition for a victorious revolution is that the Party must win over the majority of the working class to its side".

Now in this passage does not Stalin say that the support of the majority of the working masses or its benevolent neutrality, that is, its not being on the side of the bourgeoise in this class fight, is what is necessary before the Party enters upon decisive political actions? A. The term "working masses" there can include, of course, various classes.

Q. Yes. A. And one of the principles of Leninism is that a party must win the majority of the working class and win as allies other sections of the population such as the peasantry and so on.

Q. And it says here, does it not, at least to obtain their benevolent neutrality before entering upon decisive political action? A. But that doesn't contradict the fact that it must win a majority of the working class because working masses include other classes besides the working class.

Q. Now in the Constitution of the Communist International which appears in Exhibit 5, the first paragraph states that "the Communist International, the International Workers Association, is a union of Communist Parties in various countries. It is the World Communist Party". That is a correct statement of what the Communist International is; isn't that correct? A. Yes, except that the term "World Communist Party", I think, here would have a very flexible meaning. It isn't in the same sense a party as a Communist Party in each individual country is. The more exact formulation is that it is a union or a group of Communist Parties.

Q. Bound by the principle of democratic centralism; isn't that correct? A. Bound by the principles of Marxism-Leninism.

Q. Isn't the principle of democratic centralism as set forth on page 87 and 88 of the Communist International effective? A. That is an organizational procedure.

Q. Then the Communist International is based upon the principle of democratic centralism as set forth in this Constitution? A. Yes.

Mrs. King: I object to that, Mr. Presiding Inspector, on the ground that the Communist International is no longer in existence and that the tense should be in the past and not in the present.

Inspector Zimmerman: I agree and may I state that my question is rephrased to mean in the past, referring specifically to the time from 1928 when

this was adopted to 1940 when the Communist Party of the United States disaffiliated itself and specifically during the period of the membership of the Respondent in the Party.

By Inspector Zimmerman:

Q. Understanding that, is your answer the same as you just gave it? A. I would like to add that this understanding of democratic centralism does not contradict the statement that I have already made that we have always made the final decisions on any question ourselves in the American Communist Party.

Inspector Zimmerman: That is all.

By Mr. Englander:

Q. Mr. Schneiderman, the Presiding Inspector made a great deal or asked you many questions about smashing the bourgeois state apparatus and machinery. Wasn't it as taught by or as written by Lenin in his teachings, wasn't that based upon a study made by Lenin of the Paris Commune where the workers of Paris held power for approximately forty days in Paris and because they permitted at that time the state machinery consisting of the police, the judiciary, etc. as it existed prior to the establishment of the Paris Commune to continue in power and to permit the counter revolutionary forces outside of Paris to gather around Paris and then come in and in conjunction with the state machinery which existed smash the Paris Commune, wasn't that what Lenin had in mind when he discussed and wrote about destroying the state machinery and destroying the state apparatus? A. Yes, that is a well known historical fact and one of the greatest lessons that Marxists have learned from past history, and it is in that sense that the constant insistence that a new rising class cannot depend upon the apparatus and the machinery of the old class is placed. Whether you call it smashing or transforming or reorganizing or what you will, it means that the lesson of history teaches that a new class cannot remain in power once it has come into power unless it has reshaped these instruments to become the bulwark of maintaining that power as all states must have.

So that the writings of Marx and Engels and Lenin on this question always held paramount and held forth as an example the Paris Commune. In fact, there is a great deal written about it by both Marx and Lenin.

Q. And wouldn't that be similar to what we in this country under our two-party system call "to the victor belongs the spoils"? Where when one party assumes power it removes many of the officials within the agencies of the government and substitutes officials of their own party? A. Well, to a certain extent there is a parallel, yes.

Q. That is true? A. Yes.

Mr. Englander: That is all.

Mrs. King: I would like to ask Mr. Schneiderman whether he still has the slightest ambition to give us any of those examples that he was cut off from giving some two or three hours ago or whether he has forgotten what they are?

The Witness: I think most of them have come out in one form or another in the discussion, besides I don't really have the time now.

Mr. Roberts: I just want to touch briefly on one item that I neglected to develop before.

Recross examination by Mr. Roberts:

Q. Mr. Schneiderman, I believe you stated that the Communist Party of the United States criticized the Socialists not because the Socialists predicted peaceful evolution of Socialism but because the Socialists never tried to introduce Socialism once they had political power; is that a correct statement? A. That is the essence of my statement that the basic criticism was that they abandoned all attempts to establish Socialism, but I might add that they have also departed from the whole Marxist conception of history because they did not accept the Marxist concept of the role that force and violence play in history and social change.

Q. But this criticism of the Socialists then was largely a criticism based on Socialist practice once they were in power rather than a criticism of their theory? A. No, it was both since there cannot be any real separation. Their theory reflected itself in its application.

The fact that their theory departed from Marxist concepts was reflected in the fact that when they finally came

to power they abandoned all attempts to take steps in the direction of Socialism.

Q. Will you outline to me briefly just wherein the Socialists departed from the Marxist concept of force and violence?

Mrs. King: I object to that question as unrelated to the question before. You asked about the theory of Socialism and now you are jumping to force and violence.

Mr. Roberts: I believe the witness himself stated that theoretically—

Inspector Zimmerman (Interposing): I will allow the question even if it appears to counsel to be unrelated. Repeat the question to the witness.

(The reporter read the questions as follows: "Q. Will you outline to me briefly just wherein the Socialists departed from the Marxist concept of force and violence?")

The Witness: Their position differed very little from bourgeois Democrats in that they believed that it would be possible to establish a parliamentary majority, take power in a government, without the previous ruling class resisting with all its power to defy and, if possible, to overthrow the new constitutional power of the people.

This was the basic position which we fought and challenged and so they advanced this position of purely parliamentary means without recognizing that a new constitutional power might have to, under certain conditions, use force and violence to suppress the old exploiting class if they refused to give up to the majority and resisted.

By Mr. Roberts:

Q. Whereas the Communists predicted that the exploiting class would resist this change of power; is that correct? A. Yes, in the main, and said that we must not overlook the possibility that this would take place, pointing to previous historical experience and most recently to the Spanish Republic and so on.

Q. Did the Communists merely rest content with predicting that the exploiting powers would use force and violence? Didn't they in fact prepare for the time when that would arise? A. No, except in the sense of political preparation of warning the people about these things.

Q. Did they believe that the revolution would take place spontaneously? A. No.

Q. Didn't they state that there must be a vanguard of the revolution, a disciplined, organized body to lead the revolution? A. Yes.

Q. And didn't they state that the Communist Party was such an organized vanguard of the proletariat? A. Yes, the Bolshevik Party in Russia showed the kind of a role it could play in such a situation.

Q. And a vanguard was necessary in order that the proletariat could be led to counter the force and violence which was anticipated? A. Only if the proletariat came into power by democratic means.

Q. But the Communist Party, as I see it, believed essentially that force and violence would, of necessity, be used against them? A. Yes, illegal force and violence would be used against the people who come into power by democratic means.

Q. And they in turn, going on this presumption, prepared to use force and violence in behalf of what they conceived to be the proper political power? A. Well, the Russians prepared because they were in a revolutionary situation.

Q. I am speaking about the Communists in the United States. A. No, we made no such preparations. On the contrary.

Inspector Zimmerman: What I don't understand—

The Witness (Interposing): I thought one question would be asked and we would close but a whole new line of questioning has been opened and I would like to have this finished as speedily as possible.

By Mr. Roberts:

Q. I am merely trying to get from you the essential difference between the Socialists and the Communist Party, and you state that force and violence was one of the essential differences. That is, the prediction and preparation—

strike out preparation—but the prediction and anything that followed from such a prediction? A. Yes.

Q. And when you say that the Communists said that they would never take power unless they had a majority, do you mean by that an electoral majority? A. If the democratic process permitted an electoral majority, yes. If the situation were similar to conditions in Russia or under conditions of a Fascist dictatorship, then the Communists could take power by means of revolutionary means if they had the majority behind them.

Q. You mean on the assumption that they had the majority behind them? A. If they believed they had the majority behind them and they found ways that they had the majority as the Russian bolsheviks showed that they had a majority in the Congress of Soviets.

Inspector Zimmerman: Is it also considered that when they had the neutrality of the majority they would also attempt it as Lenin and Stalin stated in the documents which I have read to you?

The Witness: No, you misunderstood that paragraph. The bolsheviks did not take power until they were sure that they had a majority in the Congress of the Soviets.

Inspector Zimmerman: You misunderstand my question. My question is not the situation in Russia but is it not the teaching of Stalin and Lenin that decisive political action is to be undertaken by the Communists when either there is a majority of the people behind them or the benevolent neutrality of the masses has been achieved?

The Witness: No, that is contrary to Marxist principles.

Inspector Zimmerman: You are denying the passage or the two pages which I have read?

The Witness: Yes, I believe you are reading something into it which isn't there.

Mr. Roberts: That is all.

Inspector Zimmerman: May I clarify one more point.

By Inspector Zimmerman:

Q. You have stated that the state in the United States is a masked dictatorship of the bourgeoisie; is that correct? A. I didn't state that.

Q. Do I misunderstand you? A. Lenin said that.

Q. And you did disagree with him or didn't you? A. I gave my own version of it in my own words.

Q. What is the position of the Communist Party as of the time of this Respondent's membership? Can you state that? A. You mean from documents or my version of it?

Q. Your knowledge of what the Communist Party stood for with respect to the Government of the United States being a masked dictatorship of the capitalists. A. We said and we still say that it is a democratic republic in form but in content controlled by finance capital.

Q. And the state in the view of the Communist Party of the United States in the United States is also an organ for the suppression of the proletariat; isn't that correct? A. Yes.

Q. And inasmuch as the bourgeoisie perpetuate their power in a dictatorship, how was it anticipated that the Communists would gain an electoral majority? A. I don't get your question.

Q. Well you have stated that it is the position of the Communist Party in the United States that the present Government of the United States is a masked dictatorship of the bourgeoisie? A. There are relative dictatorships. It is not in any sense a dictatorship in the sense of a Fascist dictatorship. We have said many time that it has democratic processes and as long as those are open to us we will continue to use them and we hope to achieve power by such democratic processes. That is our hope and that is what we are fighting for.

Q. And is it your statement that the Communist Party of the United States does not take to heart the teachings of Lenin and Stalin that it may be necessary to take power by means of force and violence? A. You mean take to heart the teachings—that is, we take to heart the teachings of Lenin and Stalin but we don't believe they direct us to use force and violence?

Q. Not on the basis that they direct you to, but doesn't the fact that Lenin and Stalin teach that force and violence may be necessary enter into the contemplation or did it not enter into the contemplation of the Communist Party during the period that the Respondent was a member of the Party? A. Yes, if the exploiting minority will defy the will of the majority, yes.

Q. But the Government of the United States doesn't represent the majority under capitalism, isn't that the position of the Communist Party of the United States? A. Under certain conditions it is possible that a changed relationship of force will take place as is taking place in many countries of Europe.

Q. That is, of course, under the threat of force on its border. We are not going into the question of the means whereby it was achieved there. We are referring now to the Communist Party of the United States and its position during the time that the Respondent was a member of it.

Was it not within the contemplation of the Communist Party then that it might have to use the means advocated in State and Revolution, in the Foundations of Leninism and the Problems of Leninism as we have gone over them here? A. Only under the conditions I have outlined.

Q. But it was in the contemplation of the Communist Party to so use it if necessary then? A. No, not unless the will of the majority was violated.

Q. And assuming that it was violated constitutionally, was it prepared then to use force and violence? A. Who was violating it constitutionally?

Q. That is to say if the Congress of the United States enacted laws lawfully which the Communist Party of the United States might term Fascism here, you would then use force and violence to overthrow it? A. No, not unless there was a Fascist dictatorship of the Hitler type. There are lots of Fascist measures that have been introduced but we still have democracy.

Q. Despite the fact that Stalin and Lenin say bourgeois democracies are the best cloaks for entrenched bourgeoisie power? A. Yes.

Q. You say that the Communist Party believed that it would be possible to establish it by lawful means in these United States? A. Yes, under certain conditions.

Inspector Zimmerman: Any further questions?

Mrs. King: No more.

Inspector Zimmerman: Off the record.

(Discussion off the record.)

Inspector Zimmerman: Mr. Harisiades, will you please take the stand. Since it has been a long time

Do you understand that? A. Yes, sir.

Mrs. King: Off the record.

(Discussion off the record.)

Inspector Zimmerman: Mrs. King, you desire a copy of the record of the hearing; is that correct?

Mrs. King: I certainly do.

Inspector Zimmerman: Mr. Harisiades, I must again advise you that if you are ordered deported under any of the charges which have been either in the warrant or lodged against you at this hearing under the Act of October 16, 1918, you may never thereafter return to the United States, and if you do or attempt to do so, you will be deemed guilty of a felony and upon conviction may be imprisoned for not more than five years and after release from imprisonment then arrested and deported from the United States again. Do you understand that?

The Witness: Yes.

Inspector Zimmerman: In closing, in view of the testimony which has been adduced, is there anything that you wish to state to be added in connection with the record?

Mr. Roberts: Off the record.

Discussion off the record.)

Inspector Zimmerman: Is there any thing further that you want to state to be considered in making a determination of the case?

The Witness: No.

Inspector Zimmerman: I must also again advise you that under the Act of March 4, 1929, as amended, if you leave the United States under an order of deportation and you thereafter enter or attempt to enter the United States without first obtaining the permission of the Attorney General, you will be guilty of a felony and be liable to imprisonment for not more than two years and a fine of not more than $1,000. Do you fully understand that?

The Witness: Yes.

Inspector Zimmerman: You are at this time being continued at large upon your own recognizance.

The case is closed.

(Whereupon, at 9:00 o'clock, p. m., the case was closed.)

Exhibit 14 of 1946-1947 Hearings

PAMPHLET COPY OF CONSTITUTION OF THE COMMUNIST PARTY OF THE UNITED STATES OF AMERICA (TOGETHER WITH BY-LAWS OF THE COMMUNIST PARTY OF THE STATE OF NEW YORK)

(Omitted pursuant to Stipulation printed infra herein.)

Exhibit 15 of 1946-1947 Hearings

PHOTOSTATIC COPY OF "THE COMMUNIST", JULY 1934, VOLUME XIII, No. 7, PAGES 611-615, ETC.

(Omitted pursuant to Stipulation printed infra herein.)

Exhibit 16 of 1946-1947 Hearings

PHOTOSTATIC COPY OF "THE COMMUNIST", JULY 1934, VOLUME XIII, No. 7, PAGES 655 THROUGH 663, ETC.

(Omitted pursuant to Stipulation printed infra herein.)

Exhibit 17-A of 1946-1947 Hearings

AFFIDAVIT OF DEMETRIUS CHRISTOPHER, DATED MAY 3, 1946

(Omitted pursuant to Stipulation printed infra herein.)

Exhibit 17-B of 1946-1947 Hearings

AFFIDAVIT OF JAMES GEORGE POLITIS, DATED MAY 3, 1946

(Omitted pursuant to Stipulation printed infra herein.)

Exhibit 18 of Reopened Hearings

PHOTOSTATIC COPY OF MEMBERSHIP BOOK No. 15059 OF THE COMMUNIST PARTY OF THE U. S. A., ETC.

(Omitted pursuant to Stipulation printed infra herein.)

Exhibit 19 of Reopened Hearings

PAMPHLET COPY FORM OF MANIFESTO OF THE COMMUNIST PARTY (THE COMMUNIST MANIFESTO 1948) BY KARL MARX AND FRIEDRICH ENGELS, ETC.

(Omitted pursuant to Stipulation printed infra herein.)

Exhibit 20 of Reopened Hearings

PHOTOSTATIC COPY OF STATE AND REVOLUTION, ETC.

(Omitted pursuant to Stipulation printed infra herein.)

Exhibit 21 of Reopene dHearings

PHOTOSTATIC COPY OF "LEFT-WING COMMUNISM", ETC.
(Omitted pursuant to Stipulation printed infra herein.)

Exhibit 22 of Reopened Hearings

PHOTOSTATIC COPY OF FOUNDATIONS OF LENINISM BY JOSEPH STALIN, ETC.

(Omitted pursuant to Stipulation printed infra herein.)

Exhibit 23 of Reopened Hearings

PHOTOSTATIC COPY OF PROBLEMS OF LENINISM BY JOSEPH STALIN, ETC.

(Omitted pursuant to Stipulation printed infra herein.)

Exhibit 24 of Reopened Hearings

PHOTOSTATIC COPY OF THE COMMUNIST PARTY IN ACTION BY ALEX BITTELMAN, ETC.

(Omitted pursuant to Stipulation printed infra herein.)

Exhibit 25 of Reopened Hearings

PHOTOSTATIC COPY OF WHY COMMUNISM BY M. J. OLGIN

(Omitted pursuant to Stipulation printed infra herein.)

Exhibit 26 of Reopened Hearings

PHOTOSTATIC COPY OF "POLITICAL EDUCATION, PART TWO, THE ULTIMATE AIM", ETC.

(Omitted pursuant to Stipulation printed infra herein.)

Exhibit 27 of Reopened Hearings

PHOTOSTATIC COPY OF THE STRUGGLE AGAINST IMPERIALIST WAR AND THE TASKS OF THE COMMUNISTS

(Omitted pursuant to Stipulation printed infra herein.)

Exhibit 28 of Reopened Hearings

PHOTOSTATIC COPY OF "THE COMMUNIST", JULY 1929, ETC., PAGES 355 THROUGH 359

(Omitted pursuant to Stipulation printed infra herein.)

Exhbiit 29 of Reopened Hearings

PHOTOSTATIC COPY OF THESIS AND RESOLUTIONS FOR THE SEVENTH NATIONAL CONVENTION OF THE COMMUNIST PARTY OF THE U. S. A.

(Omitted pursuant to Stipulation printed infra herein.)

Exhibit 30 of Reopened Hearings

PHOTOSTATIC COPY OF "THE COMMUNIST", VOLUME XIV, FEBRUARY 1935, NO. 2, ETC., PAGES 127 THROUGH 147

(Omitted pursuant to Stipulation printed infra herein.)

Exhibit 31 of Reopened Hearings

PHOTOSTATIC COPY OF PHOTOGRAPH SUBMITTED BY WITNESS HEWITT

(Omitted pursuant to Stipulation printed infra herein.)

Exhibit 32 of Reopened Hearings

PHOTOSTATIC COPY OF ANOTHER PHOTOGRAPH SUBMITTED BY WITNESS HEWITT

(Omitted pursuant to Stipulation printed infra herein.)

Exhibit 33 of Reopened Hearings

COPY OF DAILY WORKER OF DECEMBER 15, 1934 REFERRING TO EXPULSION OF JOSEPH ZACK, JACK TAYLOR AND ROBERT STRONG FROM COMMUNIST PARTY

(Omitted pursuant to Stipulation printed infra herein.)

Exhibit 34 of Reopened Hearings

PAMPHLET COPY OF THE CONSTITUTION OF THE COMMUNIST PARTY OF THE UNITED STATES OF AMERICA PUBLISHED BY THE COMMUNIST PARTY OF THE U. S. A., NATIONAL OFFICE, NEW YORK, FEBRUARY, 1947

(Omitted pursuant to Stipulation printed infra herein.)

Exhibit 35 of Reopened Hearings

PAMPHLET COPY ENTITLED "DEMOCRACY OR FASCISM, EARL BROWDER'S REPORT TO THE NINTH CONVENTION OF THE COMMUNIST PARTY"

(Omitted pursuant to Stipulation printed infra herein.)

Exhibit 36 of Reopened Hearings

PAMPHLET COPY OF "THE COMMUNIST ELECTION PLATFORM, 1936"

(Omitted pursuant to Stipulation printed infra herein.)

Exhibit 37 of Reopened Hearings

PAMPHLET COPY ENTITLED "THE COMMUNISTS IN THE PEOPLE'S FRONT", ETC.

(Omitted pursuant to Stipulation printed infra herein.)

Exhibit 38 of Reopened Hearings

PAMPHLET COPY ENTITLED "COMMUNIST ELECTION PLATFORM"

(Omitted pursuant to Stipulation printed infra herein.)

Exhibit 39 of Reopened Hearings

PAMPHLET COPY ENTITLED "THE DEMOCRATIC FRONT", BY EARL BROWDER

(Omitted pursuant to Stipulation printed infra herein.)

Exhibit 40 of Reopened Hearings

PAMPHLET COPY ENTITLED "THE COMMUNIST ELECTION PLATFORM, 1938"

(Omitted pursuant to Stipulation printed infra herein.)

Exhibit 41 of Reopened Hearings

PAMPHLET COPY ENTITLED "RESOLUTIONS OF THE NINTH CONVENTION OF THE COMMUNIST PARTY"

(Omitted pursuant to Stipulation printed infra herein.)

Exhibit 42 of Reopened Hearings

PAMPHLET COPY ENTITLED "RESOLUTIONS OF THE TENTH CONVENTION OF THE COMMUNIST PARTY, U. S. A."

(Omitted pursuant to Stipulation printed infra herein.)

Exhibit 43 of Reopened Hearings

PAMPHLET COPY ENTITLED "ELECTION PLATFORM OF THE COMMUNIST PARTY, 1940"

(Omitted pursuant to Stipulation printed infra herein.)

Exhibit 44 of Reopened Hearings

PHOTOSTATIC COPY OF TELEGRAM SIGNED BY EARL BROWDER, APPEARING IN "THE COMMUNIST" APRIL 1938, PAGES 319 AND 320

(Omitted pursuant to Stipulation printed infra herein.)

Exhibit 45 of Reopened Hearings

COPY OF ARTICLE ENTITLED "THE SOCIALIST PARTY CONVENTION—A COMMUNIST ESTIMATE", APPEARING IN THE JULY 1934 EDITION OF "THE COMMUNIST" AT PAGES 615 THROUGH 638 THEREOF

(Omitted pursuant to Stipulation printed infra herein.)

Exhibit 46 of Reopened Hearings

PAMPHLET COPY ENTITLED "STALIN'S SPEECHES ON THE AMERICAN COMMUNIST PARTY"

(Omitted pursuant to Stipulation printed infra herein.)

Exhibit 47 of Reopened Hearings

PAMPHLET COPY ENTITLED "RESOLUTIONS, SEVENTH CONGRESS OF THE COMMUNIST INTERNATIONAL", ETC.

(Omitted pursuant to Stipulation printed infra herein.)

Exhibit 48 of Reopened Hearings

PAMPHLET COPY ENTITLED "A LETTER TO AMERICAN WORKERS" V. I. LENIN

(Omitted pursuant to Stipulation printed infra herein.)

Opinion of Presiding Inspector, Gilbert Zimmerman on the Reopened Hearing

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service
70 Columbus Avenue
New York 23, N. Y.

Central Office No.
A-5300756
(55696/820)

New York No.
99183/146

OPINION OF THE PRESIDING INSPECTOR
ON THE REOPENED HEARING in re:

PETER HARISIADES; also known as
PANAGIOTIS HATZILIAS;
PETE HAGELIAS;
PETE HARRISON

This supplementary Opinion concerns the deportation proceedings of a respondent, who is a forty-three year old male, native and citizen of Greece, of the white race. The respondent was originally accorded a hearing in 1946-1947, based upon a deportation warrant of arrest, issued in 1930, but not served upon the respondent until 1946 because respondent's whereabouts were for a long time unknown to the Service. That original hearing involved deportation charges arising under the Act of October 16, 1918, as amended (8 U. S. C. 137), relating to respondent's membership in the Communist Party of the U. S. A., his affiliation with the Communist International, and his belief in the doctrines espoused by the Communist Party and by the Communist International.

At that original hearing the undersigned was the sole Inspector in the case and performed the dual function of presenting the evidence and presiding at the hearing, as authorized by the then current regulations. An Opinion, including proposed findings and a recommendation as to the disposition of the case, based upon the evidence there adduced, was prepared by the undersigned in his capacity as Presiding Inspector, and was served upon respondent's Counsel. Counsel in turn submitted an answering Memorandum in behalf of the respondent. The entire record,

together with the Opinion of the Presiding Inspector and the Memorandum of Counsel was submitted to the Commissioner of Immigration and Naturalization for consideration. Thereafter, in an order dated August 5, 1947, the Commissioner directed reopening of the hearing for the following purposes: Proper authentication of the documents already in evidence in the case; the reception of additional evidence; and should the facts so warrant, the lodging against the respondent of additional deportation charges. Notice of the substance of this Order was conveyed to Counsel and to respondent (although respondent claimed not to have received such notice) in a letter dated September 3, 1947 (R. 115 to 119, incl.).[1]

The reopened hearing under the aforementioned Order of the Commissioner was begun on February 18, 1948. It appears, then, that a period of more than five months intervened between the date upon which Counsel was notified of the import of the Order reopening the hearing, and the date upon which it was reopened. Accordingly, Counsel's objection to proceeding with the hearing, which implicitly claimed a lack of sufficient notice of the purpose of the reopening (R. 117) is without merit. Counsel was afforded sufficient time within which to prepare for the reopening. Nevertheless, Counsel was advised at the reopened hearing that a request for continuance would be considered if based upon lack of adequate notice (R. 120).

Counsel additionally raised a procedural objection that the regulations prescribe that the hearing may be reopened only for "proper cause" (8 CFR 150.8), and in Counsel's opinion, the reopening Order lacked such "proper cause". This objection was overruled. It is considered to be specious. The Order on its face evinces adequate cause for reopening, and the cited regulation places discretion in the matter of the reopening under the circumstances of this case in the hands of the Commissioner of Immigration and Naturalization. As already stated, it was on his order that the hearing was reopened.

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1. Page references in this Supplementary Opinion to the original Opinion will be be prefaced by the letter "O"; to Counsel's Memorandum by the letter "M"; to the transcribed record of testimony at the original and reopened hearings by the letter "R"; and to the exhibits by the letter "P" and the abbreviation "Ex.", thusly, "P. 9 of Ex. 7".

Department of Justice Record Annexed to the Return

Opinion of Presiding Inspector, Gilbert Zimmerman on the Reopened Hearing

At the reopened hearing an additional officer was assigned, as authorized by Section 150.6(n) of Title 8, Code of Federal Regulations, to act as "Examining Inspector", and he presented the Government's case. The undersigned presided at the reopened hearing and is preparing this further Opinion in the case in that capacity.

Since it has been determined that the reopening of the hearing has been in accord with the governing regulations, consideration will now be given to the evidence relating to deportability, as adduced at both the original and reopened hearings.

I. Discussion of the Evidence—as to Deportability

At the original hearing it was developed that the respondent entered the United States on only one occasion, in 1916, when he was admitted for permanent residence (O. 2). No additional evidence bearing upon respondent's entry or alienage (the facts of alienage have been set forth in the opening sentence of this Opinion) was adduced at the reopened hearing. Hence the original findings as to alienage, and as to respondent's not being subject to deportation on any documentary charge relating to legality of entry to the United States, are affirmed (O. 62).

All of the deportation charges in the case are based upon the provisions of the Act of October 16, 1918, as amended. The charge in the warrant of arrest of *present* membership in, or affiliation with, an organization proscribed by the Act of October 16, 1918, as amended, was found in the original Opinion not to be sustained, for the reason, as there discussed, that the evidence adduced has not established the respondent to be presently (as of 1946, when the 1930 warrant of arrest was served upon the respondent) a member of, or affiliated with, any organization of the nature proscribed by the Statute (O. 3). Since the reopened hearing brought out no evidence presently connecting the respondent with any such proscribed organization, the finding previously made in this regard (O. 64) is likewise adopted.

However, as discussed in the original Opinion, three separate deportation charges under the Act of October 16, 1918, as amended, were lodged against the respondent at the original hearing. These, in effect, allege:

Opinion of Presiding Inspector, Gilbert Zimmerman on the Reopened Hearing

(1) Respondent's past belief in, advising, advocating, or teaching, after entry, the overthrow by force and violence of the Government of the United States;

(2) Respondent's past membership, after entry, in an organization that has believed in, advised, advocated, or taught that revolutionary aim; and

(3) Respondent's past affiliation, after entry, with an organization holding the same proscribed objective (O. 4).

At the outset of the reopened hearing the Examining Inspector placed the respondent on notice of two additional deportation charges arising under the same Act of October 16, 1918, as amended, making a total of five lodged charges. These two additional lodged charges, in substance assert:

(4) Respondent's membership and past affiliation, after entry, in an organization that believes in, advises, advocates, and teaches, the overthrow by force or violence of the Government of the United States;

(5) Respondent's past membership and past affiliation, after entry, in an organization that writes, distributes, prints, publishes, or displays, or that has in its possession for the purpose of circulation, distribution, publication, issue or display, written or printed matter, advising, advocating or teaching the overthrow by force or violence of the Government of the United States (R. 122).

Counsel objected to the placing of these fourth and fifth lodged charges, and decision was reserved upon the objection (R. 122, 123).

The fourth lodged charge appears to the Presiding Inspector to be, in effect, a joinder and reiteration of the second and third deportation charges which were placed against the respondent at the original hearing (R. 40, 41). Therefore, this charge is hereunder, in the section dealing with the Conclusions of Law, deemed to be a redundancy.

However, even though the Presiding Inspector agrees that this fourth lodged charge is repetitive, Counsel's objection to the lodging of it is overruled. The respondent is considered not to be prejudiced by the placing of it

against him, and the Commissioner may find its form more suitable, and choose to adopt it instead of the second and third lodged charges which it restates. The Presiding Inspector also overrules Counsel's objection to the fifth lodged charge, inasmuch as the charge in question is, on its face, distinguishable from all the other deportation charges, and relates to a separate subdivision of the Statute (Section 1(e) of the Act of October 16, 1918, as amended).

To the end that the issues may be clarified and properly resolved, the Presiding Inspector has studied, with an open mind, the Memorandum of Counsel answering the original Opinion in the case. Before considering the evidence anew here, the Presiding Inspector desires to make two observations with regard to contentions advanced in Counsel's Memorandum, which are pertinent to the analysis of the evidence.

First, Counsel's Memorandum adverts to the absence of any charge against the respondent of present personal belief in, or advising, advocating, or teaching, the overthrow by force or violence of the Government of the United States, and proceeds to infer from such absence that there was not sufficient evidence to prove that respondent's present views are within the statutory proscription. Then placing inference upon inference, Counsel concludes that respondent's past views were likewise not reprehensible, since according to his testimony, he has continued to hold the same beliefs (M. 3). While it is within Counsel's province to allege insufficiency of evidence, the inferences Counsel has drawn from the absence of any charge of present personal belief in the proscribed objective are erroneous. While the Presiding Inspector refrained, at the original hearing, from lodging a charge of present belief in the proscribed doctrine, he did, in Proposed Findings of Fact (5) of the original Opinion, set forth the finding that respondent's personal belief in the proscribed objective has continued from at least 1928 to the present time (O. 63). It is noted that the charge of past belief, linked to the period of the proscribed membership and affiliation, is sufficient to bring the respondent within the terms of the relevant section of the deportation Statute in question.

Secondly (and this is important in relation to the evidence), it is observed that Counsel's Memorandum makes a postulation, which the Presiding Inspector considers to

be wrong on two counts, as to the method whereby the Presiding Inspector in his original Opinion evaluated the evidence in the record. Counsel's Memorandum asserts, substantially, that the following general proposition is applicable to the record as a whole: The Presiding Inspector erred in selecting what he deemed to be pertinent excerpts from the documents in evidence, and in "asking" that his conclusions as to their appropriate interpretation be accepted, while rejecting respondent's views as to the meaning of these "selected quotations" and as to the import of the exhibits as a whole. Counsel then argues that the proper approach to analysis of the evidence is: "Where there are two *possible* interpretations, one legal and the other illegal, respondent is entitled to the benefit of the legal interpretation." Counsel cites the Supreme Court case of *Schneiderman* v. *U. S.*, 320 U. S. 118, as authority for this proposition, and contends that it "is equally applicable to the instant situation" (M. 4).

With respect to the first part of this proposition of Counsel, the Presiding Inspector emphatically states that he did not approach the evidence in the manner stated by Counsel. In the original Opinion the Presiding Inspector made this very clear: That he had studied each and every document in evidence as an entity, and reached his conclusions as to the import of the documents, and as to the weight of the evidence, only after he had endeavored to discern what the true meaning of the documents, and the substantial weight of all the credible evidence in the record, were. The Presiding Inspector stated in his original Opinion at the point where he entered into a careful analysis of that important document, Exhibit 5: "The Program and Constitution of the Communist International must be examined as an organic whole, since lifting sentences and paragraphs out of context may entirely distort import and meaning" (O. 9). Further, in making his conclusions with respect to it, the Presiding Inspector clearly set forth that his opinion was "based upon careful study of the document as an entity" (O. 25). He did likewise with respect to a "Thesis of the Executive Committee of the Communist International", in evidence as Exhibit 11 (O. 28). The excerpts from the documents were quoted by the Presiding Inspector only to exemplify what the relevant purport of the documents, considered in their entirety, appeared to be to the Presiding Inspector.

Moreover, the Presiding Inspector considered, and did not arbitrarily reject, respondent's views on the evidence and the issues. It was recognized that the respondent was a partisan in the case and that his declarations in his own interest were necessarily open to question as possibly being partial. Respondent's contentions had to be objectively appraised and weighed in relation to the other evidence. When measured and found to be inconsistent with what the Presiding Inspector determines was the clear import of the documents in evidence, or the appropriate inference to be drawn from the circumstances, repondent's views were rejected. The respondent came into the original hearing with notes and contentions prepared in advance. The Presiding Inspector could not do otherwise than conclude that what was presented by the respondent was put forth with an eye to the issues. To have accepted respondent's contentions at face value would have been like adjudging a defendant not guilty on the basis of a plea of innocence. In the original Opinion, wherever respondent's interpretation or contention was rejected, the reasons why it was spurned were clearly set forth. The Presiding Inspector, having to resolve conflicting evidence, fairly could do no more than accord respondent's views whatever weight he felt they were entitled to, in the light of all the evidence in the record.

Now, as already mentioned, another important aspect of Counsel's proposition is that where there are two possible interpretations of an organization's program, the respondent is entitled to the benefit of the more favorable interpretation, and that the Supreme Court decision in the case of Schneiderman v. United States, supra, constitutes judicial authority for this principle. The issue raised by this proposition of Counsel is: To constitute a fair hearing, what is the weight of evidence required to balance the scales of justice for or against the respondent, in these administrative proceedings? Is it that the Government must prove its case beyond any doubt? Such a standard has never been held applicable to administrative proceedings by any tribunal, including the Supreme Court. The most severe standard for judgment heretofore required in administrative proceedings is that the crucial issues be resolved upon the basis of substantial evidence. In other words, the conclusions upon any issue, if against the respondent, in a case wherein the burden of proof is upon

the Government, must be supported by the preponderance of the credible and reliable evidence in the record bearing upon that issue. (NLRB v. Columbian Enameling & Stamping Co., 306 U. S. 292; Edison Co. v. Labor Board, 305 U. S. 197.)

The criterion for judgment in administrative proceedings has now been legislatively expressed in the "Administrative Procedure Act" (Public Law 404, 79th Congress), approved June 11, 1946. According to the provisions of Section 12, its final section, the Act took effect three months after its enactment (hence on September 11, 1946) except for Sections 7 and 8, which took effect six months later (on December 11, 1946). Section 12 further provides that "no procedural requirement (of the Act) shall be mandatory as to any agency proceeding initiated prior to the effective date of such requirement". According to the Senate Committee Report on the Act (1945; p. 30), the word "initiated" in the aforesaid clause means a proceeding "formally begun, as by the issuance of a complaint by the agency (irrespective of prior charges or investigations), or of notice of a rule-making hearing".

The applicability of Sections 7 and 8 of the Act (which contain the requirements of the Statute with respect to the matters of hearing, evidence, and decision) to immigration deportation proceedings, such as the instant case, is presently in controversy—the Department of Justice holding that these sections do not apply, and a recent United States District Court decision holding that they do (Eisler et al v. Clark, Civil Actions 1173 through 1177, 1948, U. S. D. C. for the District of Columbia, not yet reported). Assuming arguendo that these Sections do govern deportation proceedings, it is nonetheless clear that the procedural requirements of the Act do not apply to this case.

It is the view of the Presiding Inspector that immigration proceedings are "initiated", within the meaning of the above-quoted clause of the Statute, when the warrant of arrest is served upon the respondent. It may be argued, however, that the proceedings are not "initiated" until the actual inception of the formal hearings under the warrant of arrest. In either event, the instant case was "initiated" prior to the effective date of the Sections of the Act in question. The warrant of arrest shows on its reverse side that it was served upon the respondent on May 2, 1946. This date is prior even to the enactment of

the Act. The formal hearing was begun on October 15, 1946, prior to the effective date of the procedural requirements of Sections 7 and 8. So, even if the Act governs, its procedural requirements do not apply here. Accordingly, any question relating to the qualifications under the Act of the Presiding Officer has no bearing upon this case.

However there is a serious concern in the mind of the Presiding Inspector whether the *evidential* requirements of the Act are "procedural" within the meaning of the use of that term in Section 12 of the Act. Surely some provisions of the Act (including Sections 7 and 8) are not merely "procedural", otherwise there would have been no need to qualify the word "requirement" with the adjective "procedural". Accordingly if the Act does apply to this Service, and the evidentiary requirements laid down by Section 7 and not "procedural", then it is requisite that the adjudication upon the deportation issues in this Opinion (since it is being written in May 1948) be based "upon consideration of the whole record * * * as supported by and in accordance with the *reliable, probative, and substantial evidence*", as set forth in Section 7(c) of the Administrative Procedure Act of 1946.

Accordingly, even though a lesser standard might serve, the Presiding Inspector declares his adherence in this adjudication to the following measure of proof: He holds that where there are two equally tenable conclusions which may be drawn from all the credible evidence relevant to a deportation issue in the record of this hearing, then the conclusion more favorable to the respondent should be relied upon, since the burden of proof here is upon the Government to establish deportability. But the Presiding Inspector is firmly convinced that it is error in these administrative proceedings, if there be two possible, *but unequally tenable*, conclusions, to do otherwise than to adopt the conclusion supported by the preponderance of the credible and probative evidence, and reject the conclusion based upon the inferior weight of evidence. This is the principle that the Presiding Inspector proposes to utilize in determining the substantial weight of the evidence in the instant record—if there be an issue on which two mutually inconsistent conclusions are tenable from the evidence.

The case of Schneiderman v. U. S., supra, cited as authority for Counsel's proposition, was dissimilar to these

proceedings, and the principle there enunciated is not applicable here, either in point of law, or in relation to the question of a fair hearing. That case involved a *judicial, not administrative,* action to cancel a certificate of citizenship, undertaken some twelve years after the citizenship decree had been *judicially* granted, on the ground that the defendant in that case had illegally procured his citizenship because at the time of naturalization, and for the five year period prior thereto, he had not been attached to the Constitution and well disposed to the good order and happiness of the United States. The crucial issue on which the Schneiderman decision turned was the question of the weight of evidence required to sustain the Government's case in *judicial proceedings* to annul a *prior judicial decree.* Hence the principle as to the weight of evidence there enunciated is not applicable to administrative proceedings.[2]

The Court there laid down the rule that in denaturalization proceedings, the burden of proof to sustain the cancellation action is upon the Government to show by evidence of a clear, unequivocal, and convincing character that when citizenship had been conferred upon the defendant, it had not been done in accordance with strict legal requirements, and that a "bare preponderance of the evidence" was insufficient. The Court determined that the Government's evidence did not measure up to the exacting standard of "clear, unequivocal, and convincing" evidence to establish its case beyond a reasonable doubt. The court recognized that the standard that it enunciated in that case was a "heavy burden" for the Government, and specifically referring to administrative proceedings, such as the instant case, stated that it was, in the Schneiderman case, not concerned "with the narrow issue whether administrative findings * * * are so lacking in evidentiary support as to amount to a denial of due process".

2. In the Schneiderman case, the Court stressed that the *right* of citizenship, once granted, should not be taken away without the clearest sort of justification and proof, particularly when the attack upon that right is made long after the time when the certificate of citizenship had been granted; where the defendant had committed no lawless act; and where the citizenship decree had been entered after a judicial hearing, in which the Government had had the right to appeal the decision. We are here concerned not with the abrogation of a *right* to citizenship, but with the revocation of the privilege of residing here upon grounds that Congress in its plenary power has seen fit to prescribe.

But apart from the consideration of the minimum evidentiary requisite for a fair hearing to be sustained on judicial review, the important question here is what evidential standard should govern to the end that the respondent shall have been accorded a fair hearing from a purely administrative point of view. As already stated, it is the determination of the Presiding Inspector that on an issue involving two tenable, but incompatible conclusions, the conclusion supported by the preponderance of the relevant, credible, and reliable evidence should be adopted. Consequently, the Presiding Inspector rejects as erroneous Counsel's proposition as to the underlying principle to govern in analysis of the evidence, and in resolution of any deportation issue in these administrative proceedings.

Having disposed of the question of the approach to the evidence, this Supplementary Opinion next turns to consideration of the evidence adduced. At the reopened hearing the Government presented two witnesses, one George Hewitt and one Robert Pitcoff, whose testimony established them to be former members of the Communist Party of the U. S. A., and possessed of sufficient knowledge, background, and experience within that Party, to give, with a measure of authority, "expert" testimony with respect to it and to Communist doctrine. They identified the documents relating to the Communist Party and the Communist International entered in evidence at the original hearing, and those documents which were introduced at the reopened hearing, as being authentic copies of what they purported to be. Both these witnesses categorically stated, in substance, their conclusion that during the period of their membership, the Communist Party of the U. S. A. advocated the use of force or violence to overthrow the Government of the United States. According to the testimony of the witness Hewitt, he was a member of the Communist Party from 1927 to 1944, and occupied relatively high positions therein. The witness Pitcoff testified to his membership in the Communist Party from 1926 to 1934 and to his performance of responsible duties while in the Party (R. 126 to 275, incl.).

In respondent's behalf, one witness, William Schneiderman, was presented. His testimony established him to be the person who had been the defendant in the case of Schneiderman v. U. S., supra, which has been discussed. He

likewise qualified by reason of his long membership, from 1924 to the present time, and occupancy of important positions, in the Communist Party, to speak with some authority as an "expert" with respect to the Party and to Communist doctrines. This witness identified during cross-examination most of the exhibits in evidence as being authentic copies. Schneiderman categorically denied that the Communist Party had ever advocated the use of force and violence to overthrow the Government of the United States (R. 383 to 599 incl.).

As discussed in the original Opinion, the respondent's experience and background in the Communist Party qualified him to give "expert" testimony with respect to the Party and to Communist doctrines. He likewise had denied at the original hearing that the Communist Party has ever advocated the use of force or violence to attain its objectives. Both he and the witness Schneiderman were in substantial concurrence as to the theoretical justification in Communist doctrine of the use of force and violence, which will be further examined below. The respondent did not testify on the issues at the reopened hearing.

Disregarding for the moment the question of reliance on the "expert" testimony of the three witnesses, and of the respondent, which will be later considered in relation to the weight given to their conclusions, it appears that the "expert" testimony in this record is, on its face, equally divided on the crucial issue of whether Communist doctrine espouses the use of force or violence against the Government of the United States. The "expert" testimony on both sides of this issue is, as will be later discussed, subject to the limiting factors of partiality and internal inconsistency. Because of these limiting factors, and in view of the fact that the "expert" testimony on each side tends, on the surface, to counterbalance the other, the Presiding Inspector considers the documentary evidence in the record to be of paramount importance in the resolution of this central issue, and the conclusions of the "experts" to be of lesser value. This view is reinforced by the fact that the import of the documents, per se, relative to the central issue, is involved in one of the deportation charges.

The divergency in the conclusions on this crucial issue stands out clearly. The contention advanced in Counsel's Memorandum, and in the testimony of the respondent and

the witness Schneiderman, is that Communist doctrine predicts, on the basis of historical analysis, that in the process of the Communists' endeavor to come into power by peaceful and lawful means and to make fundamental property changes by constitutional process, force may necessarily have to be used under Communist leadership to meet the force used by the class which owns the means of production in resistance to such radical but lawful changes. Such prediction or "belief", it is argued, is not tantamount to belief in, or advocacy of, the use of force or violence to overthrow the Government of the United States.

Counsel's Memorandum quotes the following Supreme Court statement in the Schneiderman case, supra, of one of the conclusions tenable from the evidence in that case, as setting forth respondent's position on this issue:

> "A tenable conclusion is that the (Inspector's Note: Communist) Party in 1927 desired to achieve its purpose by peaceful and democratic means, and as a theoretical matter justified the use of force and violence only as a method of preventing an attempted forcible counterthrow once the Party had obtained control in a peaceful manner, or as a method of last resort to enforce the majority will if at some indefinite future time because of peculiar circumstances constitutional or peaceful channels were no longer open."

The other conclusion from the evidence in the Schneiderman case, supra, which the Supreme Court stated was tenable is (at p. 134):

> "The bombastic excerpts * * * upon which the Government relies, lends considerable support to the charge. We do not say that a reasonable man could not possibly have found, as the district court did, that the Communist Party in 1927 actually urged the overthrow of the Government by force and violence."

It is parenthetically noted that the Supreme Court in the Schneiderman case, supra, specifically states that it was not passing (and had never passed upon it) upon the questions as to which of the aforecited conclusions was the more tenable from the evidence. It must be noted, too, that in

the Schneiderman case, supra, the Supreme Court, as stated in its opinion, disregarded all events and writings arising subsequent to 1927, and considered relatively few documents. In the instant case the period of time extends to 1939 and there are many more writings in evidence than there were in the Schneiderman case. Clearly, the factual conclusions reached by the Supreme Court there do not constitute a reliable guide here.

The foregoing gives rise to two facets of the central crucial issue: First, are the two conclusions, cited from the Supreme Court decision in the Schneiderman case, tenable from all the credible evidence in this record? If so, then, which one of these conclusions is supported by the substantial weight of the evidence?

The Presiding Inspector is well aware that this issue has perplexed both administrative factfinders, and the courts alike, for a long time. He has therefore made a thorough and searching study of the evidence in the instant record, and has reached his conclusions on the basis of all the evidence. He has seriously considered the testimony of the respondent and the witnesses. He has examined each document as an organic whole, and in what follows below, has assiduously attempted to avoid culling excerpts out of context. Such excerpts as are hereinafter quoted, he believes, exemplify the import of the particular document quoted, relative to the point in connection with which it appears. Finally, the inferences and conclusions that he states are based upon an integrated view of all the evidence.

At the outset it is useful to review the settled facts of respondent's associations: He was a member of the Communist Party of the U. S. A. at least from 1925 to 1939; during the same period, that Party was affiliated with the Communist International. While Counsel's Memorandum has taken issue with the Presiding Inspector's finding as to the rigid discipline exercised by the Communist International over the Communist Party of the U. S. A. and its members, Counsel did not directly dispute the finding that through this relationship, the respondent, who was fully cognizant of the connection between the two organizations during his period of membership, was affiliated at least from 1925 to 1939 with the Communist International. Contentions as to the extent of the discipline exercised by the

Communist International over the Communist Party of the U. S. A. are immaterial to a determination whether the relationship of the respondent to the Communist International constituted affiliation within the meaning of the use of that term in the Statute. Accordingly, the finding (O. 62) of respondent's affiliation with the Communist International is a settled factual issue. (The question of the "rigid discipline" will be later considered in relation to the effect of declarations of the Communist International upon the Communist Party of the U. S. A.)

It appears, then, that if it is found that the Communist International espoused the use of force or violence against the Government to achieve Communist political supremacy in the United States, the deportation charge of "past affiliation with a proscribed organization" is sustained. If the finding is made that the Communist Party of the U. S. A. advocated the use of force or violence to overthrow the Government in order to obtain political control of the United States, then the deportation charge of "past membership in a proscribed organization" is supported. If it is determined that the published political utterances in evidence, which admittedly were circulated and distributed by the Communist Party during the period of respondent's membership in the Party, urge, per se, the proscribed objective, then the deportation charge of "past membership in an organization circulating or distributing proscribed written or printed matter" is valid. The remaining deportation charge, that of respondent's personal belief in the proscribed objective, rests principally upon the imputation to respondent of the proscribed doctrines espoused (if such be the fact) by the aforestated organizations, whose doctrines he, by his own acknowledgment, advocated. Accordingly, the finding as to respondent's personal advocacy depends upon the determination made with respect to the other deportation charges in question.

In the opinion of the Presiding Inspector, it is necessary to understand the fundamental Communist ideology in order to perceive the precepts advocated by the above-mentioned organizations, with respect to the crucial issue. From this basic ideology, the evidence convinces the Presiding Inspector stems the theoretical and practical doctrines advocated by the Communist International and the Communist Party of the U. S. A. in issue here. This ideology, as respondent's witness, William Schneiderman,

readily testified, is termed "Marxism-Leninism" (R. 334, 352 and 358). Discussion of this fundamental set of principles requires, first, a review of the relevant documents in evidence. These consist of: official doctrinal pronouncements of both the Communist International and the Communist Party of the U. S. A., adopted during the period of respondent's membership; published writings of individual important officials of the Communist Party of the U. S. A., which, the evidence establishes, were circulated and distributed by the Communist Party of the USA among its members and prospective adherents during the period of respondent's membership, and certain of the published writings which were also (the evidence shows) circulated and distributed by the Party during that period, of Karl Marx; Friedrich Engels, V. I. Lenin, and Joseph Stalin. The last-mentioned category of documents, as will be later discussed, pertain to the ideology, here termed "Marxism-Leninism".

Counsel objected to the introduction in evidence of some of the writings of individual Communist Party officials (R. 160 and 165). Counsel's objections were overruled. These writings, the testimony of the witnesses reveals, were printed by a publishing concern very closely connected with the Communist Party of the U. S. A. (R. 315-318), or were published by the Communist Party in its monthly theoretical magazine, "The Communist", and were circulated and distributed among its members and possible supporters, by Communist Party literature agents, called "Agitational-Propaganda" (Agit-Prop for short) Directors, and were sold in the Communist Party Units, during the period of respondent's membership in the Party. The very fact that these writings were circulated and distributed through Party channels during the period of respondent's membership, warrants their being admitted into evidence. Since the writers were highly placed officials of the Party, their views are entitled to be admitted for consideration of what they had to say as to the doctrines advocated by the Communist Party of the U. S. A. The evidentiary weight these writings deserve depends, of course, upon the extent to which they appear authoritatively to express Party principles or teachings.

The official declarations (within the definition of the term "official" given by respondent's witness, Schneider-

man (R. 283), of both the Communist International and the Communist Party of the U. S. A. show the reliance these organizations placed upon the "Marxist-Leninist" ideology, and the extent to which their doctrines conform to its precepts.

In the original Opinion, the Presiding Inspector reviewed the contents of the pamphlet, "Program of the Communist International Together With Its Constitution" (Ex. 5), and concluded that the Program therein set forth, which was adopted by the Sixth World Congress of the Communist International in September 1928, was an exposition of the International's analysis of history, and its precepts, aims, strategy, and tactics, intended for world-wide dissemination and implementation by the Communist Parties in all countries (O. 10 and 11). As there stated, the respondent has acknowledged that the "Program's" principles provided general guidance for the Communist Party of the U. S. A. and its members, (although he claimed that its principles could not be applied, and were not so applied by the Communist Party of the U. S. A., mechanically to the situation in the United States) (O. 7 and 51). At the reopened hearing the authenticity of this document was conceded (R. 145).

The "Program" of the Communist International sets forth, in its introduction, the dependence upon the teachings of Marx, Engels, and Lenin, of the precepts of the Communist International there enunciated (pp. 9 and 10 of Ex. 5);

> "* * * the Communist International regards itself as the historical successor to the 'Communist League' and the First International led by Marx, and as the inheritor of the best of the pre-war traditions of the Second International. *The* FIRST *International laid the ideological foundation for the international proletarian struggle for socialism.* The SECOND International, in the best period of its existence, prepared the ground for the expansion of the labor movement among the masses. The THIRD, Communist International, is continuing the work of the First International, and in accepting the fruits of the work of the Second International, has resolutely lopped off the latter's opportunism, social-chauvinism, and bourgeois distortion of socialism

and has commenced to realize the dictatorship of the proletariat. In this manner the Communist International continues the glorious and heroic traditions of the international labor movement: * * *

"Basing itself on the experience of the revolutionary labor movement on all continents and of all peoples, the Communist International, in its *theoretical and practical work, stands wholly and unreservedly upon the ground of* REVOLUTIONARY MARXISM, *and its further development,* LENINISM, *which is nothing else but Marxism of the epoch of imperialism and proletarian revolution.*

"*Advocating and propagating the* DIALECTICAL MATERIALISM *of Marx and Engels* and employing it as the revolutionary method of the cognition of reality, with the view to the *revolutionary transformation* of this reality, the Communist International wages an active struggle against all forms of bourgeois philosophy and against all forms of theoretical and practical opportunism: * * *." (Inspector's Note: Italics supplied; capitals represent italics in the original.)

The "Program", in its section dealing with ideologies among the working class inimical to Communism, asserts that the ideology espoused by the Communist International, "in complete harmony with the teachings of Marx and Engels * * * conducts a theoretical and practical revolutionary struggle for the dictatorship of the proletariat, and in the struggle applies *all* forms of proletarian mass action" (P. 76 of Ex. 5). In relation to the tactics urged upon the Communist Parties for use when a revolutionary situation develops, the "Program" states: "The Parties must be guided by the fundamental role of the political tactics of Leninism * * *" (p. 81 of Ex. 5). It is evident from the foregoing that the teachings of Marx, Engels, and Lenin constituted the ideological basis for the theoretical and practical doctrines espoused by the Communist International in its "Program".

Another pronouncement of the Communist International, a Resolution of the Sixth World Congress entitled "The Struggle Against War and the Tasks of the Communists",

which was also adopted in 1928, was entered in evidence at the reopened hearing (Ex. 27). This Resolution was identified by witness Hewitt as having been distributed and circulated in pamphlet form since at least 1932 by the Communist Party (R. 171). It was likewise authenticated by the witness Pitcoff, who testified to its distribution and circulation in the Party during the period of his membership (R 263). The witness Schneiderman also identified it and acknowledged that it had been circulated and distributed by the Party (R. 343). No evidence was adduced that this Resolution was ever rescinded or repudiated during the period of respondent's Party membership and the inference is drawn that, like the "Program", it continued to be effective during all of respondent's period of membership in the Party. As will be subsequently noted, the Seventh World Congress of the Communist International in 1935 reaffirmed its adherence to the Resolution under discussion here.

This Resolution deals with the Communist attitude towards imperialist war. (It will be later discussed in that connection.) With respect to the point here under consideration, this Resolution, in the Section dealing with the attitude of the proletariat towards war, declares (p. 9 of Ex. 27):

> "* * * the revolutionary proletariat advances the rational theory of Marxism-Leninism, as the only scientific basis for a real struggle against war."

The Resolution repeatedly cites Lenin as its authority and even quotes from his writings (pp. 10, 16, 19, 22, 24, 32, 36, 55, 56, and 64 of Ex. 27).

Another official utterance of the Communist International in evidence is a pamphlet containing the Resolutions of the Seventh World Congress of the Communist International adopted in 1935, and the closing speech made at the Congress by one Georgi Dimitroff (Ex. 47). The witness Schneiderman identified these Resolutions sufficiently to allow their being admitted into evidence (R. 460 to 463, incl.). One of the Resolutions adopted by this Congress was on the report of this same Georgi Dimitroff (p. 21 of Ex. 47). This fact, the consideration that it was included in the circularized pamphlet, and the nature of Dimitroff's closing speech, warrant deeming that speech

to be expressive of the views of the Communist International.

In his closing speech, Dimitroff stated (p. 11 of Ex. 47):

> "Standing firmly on the impregnable position of Marxism-Leninism, which has been confirmed by the entire experience of the international labor movement, and primarily by the victories of the great October Revolution, our Congress, acting in the spirit and guided by the method of LIVING MARXISM-LENINISM, has reshaped the tactical lines of the Communist International to meet the changed world situation." (Inspector's Note: Italics in original.)

Further, he says (p. 13 of Ex. 47): "Whoever will try to break up the iron unity of our ranks by any kind of factionalism will get to feel what is meant by the Bolshevik discipline that Lenin and Stalin have always taught us." In his conclusion, Dimitroff asserts (p. 15 of Ex. 47): "We are the disciples of Marx and Engels, Lenin and Stalin. We should be worthy of our great teachers."

The Communist International Seventh World Congress Resolution on the Report of Dimitroff concludes with a quotation from Stalin (p. 39 of Ex. 47): "The victory of revolution never comes by itself. It has to be prepared for and won. And only a strong proletarian revolutionary party can prepare for and win victory." In the Resolution on the Report of M. Ercoli, the Seventh World Congress postulates (p. 43 of Ex. 47):

> "On the basis of the teachings of Marx-Engels-Lenin-Stalin on war, the Sixth World Congress of the Communist International concretely formulated the tasks of the Communist Parties and the revolutionary proletariat in the struggle against war. Guided by these principles . . ."

(The importance of this reaffirmation of the 1926 Resolution on war (Ex. 27) will be later discussed.) This same Resolution declared that the Communist International based itself upon a thesis jointly advanced by Lenin and another person in relation to the tasks of the Communist Parties in the event of war (p. 48 of Ex. 47).

Department of Justice Record Annexed to the Return

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The foregoing references to the official declarations of the Communist International show its fealty to the Marxist-Leninist ideology as propounded in the teachings of Marx, Engels, Lenin, and Stalin.

The same is true with respect to the official utterances in evidence of the Communist Party of the U. S. A. The 1938 Constitution of the Party, a copy of which was entered in evidence at the original hearing, was conceded at the reopened hearing to be authentic (R. 144). In its preamble, the Constitution dedicates itself to (pp. 5 and 6 of Ex. 4):

> "* * * the establishment of Socialism, according to the scientific principles enunciated by the greatest teachers of mankind, Marx, Engels, Lenin, and Stalin, embodied in the Communist International * * *
>
> "To this end, the Communist Party of the United States of America establishes the basic laws of its organization in the following Constitution."

There is in evidence a Communist Party membership book, issued in 1930 (Ex. 18). The witness, Hewitt, identified it as representative in form of the books issued to members by the Communist Party at that time (R. 152). It was also authenticated by the witness, Pitcoff (R. 259). The witness, Schneiderman, acknowledge its similarity to membership books used at one time by the Communist Party (R. 327). Hence its authenticity does not appear to be in dispute. This membership book shows that it was issued by the Central Committee of the Communist Party of the U. S. A., and, after setting forth "extracts from the Statutes of the Communist Party of the U. S. A.", upon its last page, pointedly quotes Lenin with respect to the nature and discipline of the Communist Party (Ex. 18).

Counsel, after respondent's witness, Schneiderman, had authenticated them, submitted in evidence certain official declarations of the Communist Party (Exs. 34-44; R. 284 to 293, incl.). A number of these contain affirmation of the fact that the Communist Party is dedicated to "Marxism-Leninism". In the Report entitled "The Communists in the People's Front", delivered at a Plenary Meeting of the Central Committee of the Communist Party, U. S. A., in 1937, the following appears (pp. 45 and 46 of Ex. 37):

> "Since the foundation of *scientific socialism*, all its greatest teachers have been forced to struggle

> constantly against the phrasemongers of the 'no compromise' school of thought, that hallmark of petty-bourgeois radicalism. Every generation must continue that struggle, for such empty bombast is constantly being generated in the minds of those who are unable or unwilling to learn from the past. *The great polemics of Marx and Engels had to be supplemented by Lenin (as in that great example,* LEFT WING COMMUNISM: AN INFANTILE DISORDER), while after Lenin it was necessary for Stalin to wage the epic struggle against Trotskyism which refused 'on principle' to admit the possibility of 'socialism in one country', demanding the whole world at once or nothing." (Inspector's Note: Italics supplied; capitals represent italics in original.)

The deferential reference to Lenin's writing, "Left Wing Communism: An Infantile Disorder", in this report will be later referred to, particularly the quotation as authority of a passage from this writing by Lenin (p. 49 of Ex. 37).

This report further emphasizes the importance of "Marxism-Leninism", in relation to the political work of the Party, in a reference which is very illustrative of the exact point here under discussion. It states under a heading of "Marxist-Leninist Theory to Illuminate Our Political Work". (p. 106 of Ex. 37):

> "Our practical work must be more illuminated by the theory of Marx, Engels, Lenin, and Stalin, those greatest educators of the people known to history, the leaders of the realization of socialism."

It quotes with approval the expression by Dimitroff, apparently the same person who addressed the Seventh World Congress (as already mentioned), of the necessity for inculcating Communist cadres with "mastery of the great teachings of Marx, Engels, Lenin and Stalin as a guide to action" (p. 125 of Ex. 37).

In another of these exhibits submitted in behalf of the respondent, "A Report to the Tenth National Convention

of the Communist Party of the U. S. A." on behalf of the National Committee in 1938, there appears the exhortation to the Party to build itself "into a truly mass party trained in Marxism-Leninism" (p. 59 of Ex. 39), and to educate the masses in "the teachings of our great guides, Marx, Engels, Lenin and Stalin (p. 63 of Ex. 39). There is also set forth the proposal of the Committee "to make the education of our leading people, their Marxist-Leninist training, a central task of the whole Party" (p. 67 of Ex. 69). Obviously, in 1938 the "Marxist-Leninist" ideology loomed large in the Party's view.

Another document submitted in respondent's behalf, the Resolutions of the Ninth Convention of the Communist Party of the U. S. A., adopted in 1936, clearly reveals the adherence of the Party, while carrying on its immediate practical and political tasks, to the "Marxist-Leninist position on war as embodied in the thesis of the Sixth World Congress of the Communist International, and in the Resolution of its Seventh Congress" (p. 53 of Ex. 41).

Lastly, the Resolutions of the Tenth National Convention of the Communist Party of the U. S. A., adopted in 1938 (at the same time as the Constitution, Exhibit 5, already referred to, was adopted), introduced in evidence by Counsel, set forth in relation to "Party Building" (p. 16 of Ex. 42):

> "The historic tasks now facing the American labor movement place decisively before the American Communists the basic question of building their Party in a true mass party trained in Marxism-Leninism";

and also (p. 21 of Ex. 42):

> "The convention * * * emphasizes the importance of building and broadening the Young Communist League as the instrument for educating America's young people in Marxism-Leninism and in the spirit of our Party."

The foregoing excerpts from the official declarations of the Communist International and the Communist Party of the U. S. A. exemplify the important bearing the "Marxist-Leninist" ideology had upon the precepts of these organizations during the period of respondent's association with them. These quotations from official utterances of the or-

ganizations in question show that the writings of Marx, Engels, Lenin, and Stalin constitute the Marxist-Leninist ideology to which the organizations are devoted. Essentially, what this Opinion is concerned with in relation to Marx, Engels, Lenin and Stalin, is their teachings and advocacy which relate to the political question in issue. Their writings must, therefore, be looked into to determine the principles, termed by the Communist Party of the U. S. A. "scientific", of Marxism-Leninism in the realm of politics, to resolve the issue of whether or not the two aforementioned organizations advocated the use of force or violence against the Government to attain Communist political dominance here in the United States.

This Opinion is therefore interested in the "scientific principles of Marxism-Leninism" with respect to the nature of state power or the government of organized Society, and the political role of the "dictatorship of the proletariat" in relation to this state power. As the analysis of the "Program" of the Communist International in the original Opinion revealed (O. 13), the crux of the central issue lies, as the "Program" states, in the "intervening period of political transition" between capitalist society and Communist society, "in which the essential state form is the revolutionary dictatorship of the proletariat" (P. 34 of Ex. 5). The enquiry, then, must be: What does "Marxism-Leninism" teach or advocate as to the manner whereby the Communists are to assume state power and establish the "Dictatorship of the Proletariat"?; What is the essential political form of this "Dictatorship of the Proletariat"? These are the questions that examination of the writings of Marx, Engels, Lenin and Stalin need answer.

The Presiding Inspector accepts here the view that advocacy of the overthrow of the vested interests of a propertied class is not decisive with respect to the crucial issue, so long as that radical change is sought to be achieved by constitutional process. The Presiding Inspector, however, does not alter his position, taken in the original Opinion, that the statute proscribes advocacy of the use of force or violence to counter lawful activities of the instrumentalities of the state (acting under orders of a legally constituted government), to safeguard vested property rights, even though such advocacy may be based on a contention that the government which directs such actions is not truly repre-

sentative of the will of the overwhelming majority of the people (O. 16). It is noted that Counsel's Memorandum distorted this position of the Presiding Inspector to claim that the Presiding Inspector's real test on the issue was advocacy of the "overthrow of a vested property right, * * * whether * * * by lawful act of, say, a labor government, or not" (M. 12 and 13). Counsel misconstrued the criterion applied by the Presiding Inspector, the point made by the Presiding Inspector being limited to a political situation wherein the Government, acting within the framework of the Constitution, undertook to protect property rights, and force was advocated to be used against such lawful action of instrumentalities of the Government. The Presiding Inspector concurs in the view that advocacy of any change, no matter how radical, is not within the statutory ban, so long as such advocacy be confined within constitutional limits. But when the advocacy goes beyond constitutional limits, the issue takes another turn. Where, under a charge that the Government is not acting in accord with the popular mandate, an organization, or an individual, advocates the use of force or violence against the Government, itself, then such advocacy comes within the statutory proscription. The issue, admittedly, becomes more complex when projected into a political situation, as in Germany in 1933, when under cloak of legality, the state power was dictatorily seized, and the republican form of government there was subverted.

This Supplementary Opinion will later consider whether the Communist ideology necessarily requires that the crucial issue be projected into such circumstances in relation to the Government of the United States. The point made here in this connection is simply that the crucial issue in the case is not concerned with the radical nature of the Marxist-Leninist precepts in the sphere of economics, except so far as they impinge upon the political arena. The issue is not whether the economic changes advocated are revolutionary, but whether in the process of remaking the economic structure of Society, the Marxist-Leninist ideology of the two aforementioned organizations advocates the use of force or violence against the state power in a capitalist or bourgeois republic, such as the United States is postulated by the "Program" of the Communist International (as analyzed in the Original Opinion) to be.

Department of Justice Record Annexed to the Return

Opinion of Presiding Inspector, Gilbert Zimmerman on the Reopened Hearing

Counsel conceded, and respondent's witness, Schneiderman, acknowledged, that the publication in evidence entitled "The Communist Manifesto", written by Karl Marx and Friedrich Engels, is authentic, and is a basic Marxist document (Ex. 19; R. 154, 327 and 328). However, the witness, Schneiderman, qualified his acknowledgment by stating that the document's applicability was limited to the period in which, and the countries about which, it was written. He testified to the effect that in the present historical period, Lenin is the modern spokesman for the Marxist doctrines (R. 328 and 329). As shall be shown later, Lenin, in his writings which are in evidence here, reviewed, emphasized, and clarified, the political teachings of Marx and Engels. Nonetheless, the Communist Manifesto postulates the fundamental thesis of the class struggle and its role in modern Society, and for that reason warrants careful examination and consideration.

As the preface to the Manifesto makes clear, the Manifesto was published in 1848 as a platform for the Communist League, a workingmen's association, which later became an international organization (the First International) (p. 3 of Ex. 19). In the preface, which is shown to have been written by Engels in 1888, Engels states that he and Marx agreed that the fundamental proposition which forms the Manifesto's nucleus is (p. 6 of Ex. 19):

> "That in every historical epoch, the prevailing mode of economic production and exchange, and the social organization necessarily following from it, form the basis from which it is built up, and from which alone can be explained, the political and intellectual history of that epoch; that consequently the whole history of mankind * * * has been a history of class struggles, contests between exploiting and exploited, ruling and oppressed classes; that the history of these class struggles form a series of evolutions in which, nowadays, a stage has been reached where the exploited and oppressed class—the proletariat—cannot attain its emancipation from the sway of the exploiting and ruling class—the bourgeoisie—without at the same time, and once and for all, emancipating society at large from all exploitation, oppression, class distinctions, and class struggles."

The essence of "Marxism", then, as the analysis in the Manifesto's preface itself shows, is the thesis of the class struggle based upon the prevailing mode of economic production and exchange, which mode of production and exchange determines the political and social structure of the society.

The Manifesto's postulation significant to the issue here is (p. 11 of Ex. 19):

> "The bourgeoisie has at last, since the establishment of modern industry, and of the world market, conquered for itself, *in the modern representative state,* exclusive political sway. *The executive of the modern state* is but a committee for managing the common affairs of the whole bourgeoisie." (Inspector's Note: Italics supplied.)

Now, this fundamental tenet goes to the heart of the crucial issue. Marxism here lays down the basic concept that in the modern *representative* state (the appellation "modern representative state" applies more aptly today to the United States and other republican countries than it did in 1848), the state executive operates for, and in behalf of, the bourgeoisie.

The Manifesto declares that in the process of the constant revolutionizing of the instruments of production, a class of non-propertied workers, termed the "proletariat", (who must sell their labor like a commodity for livelihood) arises and increases in numerical and political strength in proportion to the development of capital, i.e., the means of production (pp. 13 to 15, incl., of Ex. 19). In attaining and maintaining its own political ends, the bourgeoisie makes use of the proletariat, and in the process, the proletariat becomes organized and united, first fighting for the ends of the bourgeoisie, and then, as it grows stronger, opposing the bourgeoisie (pp. 17 to 19, incl., of Ex. 19). The Manifesto asserts (p. 18 of Ex. 19):

> "This organization of the proletarians into a class, and consequently into a political party, is continually being upset again by the competition between the workers themselves. But it ever rises up again, stronger, firmer, mightier. It compels legislative recognition of particular interests of the workers, by taking advantage of the divisions among the bourgeoisie itself."

The Manifesto then declares that of all the classes facing the bourgeoisie in modern Society, the proletariat alone is a really revolutionary class, inasmuch as it is the only class produced and increased by the industrial development, whereas all other classes decay and disappear in the face of modern industry (p. 19 of Ex. 19). The Manifesto points out (p. 20 of Ex. 19):

> "Modern industrial labour, modern subjection to capital, the same in England as in France, in America as in Germany, has stripped him of every trace of national character. Law, morality, religion, are to him so many bourgeois prejudices, behind which lurk in ambush just as many bourgeois interests."

Here clearly, the Manifesto's purview encompassed the United States, as well as European countries, in an observation, which if true in 1848, is truer today. The witness, Schneiderman's expressed limitation mentioned above, on the scope of the Manifesto, then, has no relevancy to the issue. It is important to note that law and morality in a bourgeois state are here declared to be bourgeois prejudices fronting for bourgeois interests. This general Marxist teaching had relevancy to the crucial issue, as shall later be considered.

Following this Marxist formulation of the class struggle between the bourgeoisie and the proletariat in modern Society, the Manifesto proceeds to the apex of its thesis (pp. 20 and 21 of Ex. 19):

> All the preceding classes that got the upper hand, sought to fortify their already acquired status by subjecting society at large to their conditions of appropriation. The proletarians cannot become masters of the productive forces of society, except by abolishing their own previous mode of appropriation, and thereby also every other previous mode of appropriation. They have nothing of their own to secure and fortify; their mission is to destroy all previous securities for, and insurances of, individual property.
>
> "All previous historical movements were movements of minorities, or in the interest of minorities. The proletarian movement is the self conscious, inde-

> pendent movement of the immense majority, in the interests of the immense majority. The proletariat, the lowest stratum of our present society, cannot stir, cannot raise itself up, without the whole superincumbent strata of official society being sprung into the air.
>
> "Though not in substance, yet in form, the struggle of the proletariat with the bourgeoisie is at first a national struggle. The proletariat of each country must, of course, first settle matters with its own bourgeoisie.
>
> "In depicting the most general phases of the development of the proletariat, we traced the more or less veiled civil war, raging within existing society, up to the point where the war breaks out into open revolution, and where the violent overthrow of the bourgeoisie lays the foundation for the sway of the proletariat."

If this conception of Society applied in 1848, then it is even more applicable today, considering the enormous development of capital from 1848 to the present date. According to Marxism, the modern state is the organ whereby the bourgeoisie maintains its supremacy in society; the antagonism between the two dominant classes in society will break out into an open revolution; and the revolutionary overthrow of the power of the bourgeoisie will lay the foundation for the rule of the proletariat.

Following this analysis of Society, the Manifesto predicts that the fall of the bourgeoisie from power and the victory of the proletariat are historically equally inevitable (p. 21 of Ex. 19). Up to this point in the Manifesto, the discourse appears to constitute an historical analysis of the class struggles in Society, ending in a prediction as to the inevitable outcome of the historical process. It appears to the Presiding Inspector that the first part of the Manifesto discussed up to this point involves exposition, not advocacy.

The Manifesto, itself, states (p. 23 of Ex. 19): "The theoretical conclusions of the Communists . . . merely express, in general terms, actual relations springing from an existing class struggle, from a historical movement going on under our very eyes."

However, after this elucidation, the Manifesto proceeds, in its next section, to assert what is the relationship of the Communists to the proletarians as a whole (p. 22 of Ex. 19). It postulates that the Communists have no interests apart from the entire proletariat, but that they are the most advanced and resolute section of the working class parties of *every* country, the section that leads the rest, and that they have the advantage of a clear theoretical understanding of the direction, the conditions, and the ultimate outcome of the historical process whereby the victory of the proletariat will be inevitable (p. 22 of Ex. 19). The Manifesto then formulates the programmatic aim of the Communists: "Formation of the proletariat into a class, overthrow of bourgeois supremacy, conquest of political power by the proletariat" (p. 22 of Ex. 19). Now, here, the Manifesto moves from exposition to advocacy. It is stated here that the Communist program has as its objective the overthrow of bourgeois supremacy and the conquest of political power by the proletariat.

The Manifesto, in this second section, then sets forth justification for its program, and concluding that the coming into power of the proletariat will result in the public power's losing its political character, trenchantly underlines in the following language the basic Marxist tenet, observed earlier (p. 31 of Ex. 19): "Political power, properly so called, is merely the organized power of one class for oppressing another." In other words, in the Marxist view, state power in a bourgeois or capitalist country, is the organized power by means of which the bourgeoisie suppresses the proletariat (i.e., whenever their "irreconcilable" interests conflict). With this premise, the advocacy of the overthrow of bourgeois supremacy necessarily connotes advocacy of the overthrow of the bourgeois state power. The Manifesto declares (p. 30 of Ex. 19): ". . . . the first step in the revolution by the working class, is to raise the proletariat to the position of ruling class, to establish democracy". (The Marxist use of this term "democracy", will be later considered.) It then sets forth that the proletariat, after it has come into political supremacy, will use it "to wrest, by degrees, all capital from the bourgeoisie, to centralize all instruments of production in the hands of the state, i.e., of the proletariat organized as the ruling class . . . ." (p. 30 of Ex. 19). Here the use of the phrase "by degrees" in relation to wresting all

capital from the bourgeoisie is curious. It denotes a gradual taking over of capital, not its seizure at one fell swoop. This declaration in the Manifesto is followed by a list of measures, which the Manifesto terms "despotic inroads on the right of property". These measures, the Manifesto states, will be taken after the proletariat attains political supremacy and while they will be *different* in different countries, they will all be generally applicable in the most advanced countries. This Opinion is not concerned with the nature of these measures because, as the Manifesto states, they are to be taken *after* political power has come into the hands of the proletariat.

As already discussed, the crux of the issue lies in the measures that Marxism-Leninism advocates whereby political power is to be attained by the proletariat under Communist leadership. In this area of advocacy, the Manifesto, other than by the implication of its theoretical concepts, is silent, except for the closing passage of Section II, where the following hypotheses, importantly conditioned upon the conjunction "if", appear (p. 31 of Ex. 19):

> "If the proletariat during its contest with the bourgeoisie is compelled, by the force of circumstances to organize itself as a class; if, by means of a revolution, it makes itself the ruling class, and, as such sweeps away by force the old conditions of production, then it will, along with these conditions, have swept away the conditions for the existence of class antagonisms and of classes generally and will thereby have abolished its own supremacy as a class."

In the opinion of the Presiding Inspector the use here of the conditional conjunction "if", signifies that the Manifesto made its advocacy of forceful measures to achieve power dependent upon circumstances. Engels, in the preface, makes this point crystal clear in the following passage, which he quotes from a preface to an earlier edition of the Manifesto, written jointly by him and Marx (p. 7 of Ex. 19):

> "However much the state of things may have altered during the last 25 years, the general principles laid down in this MANIFESTO are, on the whole, as correct today as ever. Here and there some detail might be improved. The practical application of the

> principles will depend, as the MANIFESTO itself states, everywhere and at all times, on the historical conditions for the time being existing, and for that reason, no special stress is laid on the revolutionary measures proposed at the end of Section II. That passage would, in many respects, be very differently worded today. In view of the gigantic strides of modern industry since 1848, and of the accompanying improved and extended organization of the working class, in view of the practical experience gained, first in the February revolution, and then still more, in the Paris Commune, where the proletariat for the first time held political power for two whole months, this programme has in some details become antiquated. One thing especially was proved by the Commune, viz., that 'the working class cannot simply lay hold of the ready-made state machinery, and wield it for its own purposes'. . . . But then, the MANIFESTO has become a historical document which we have no longer any right to alter." (Inspector's Note: Capitals represent italics in original.)

The meaning of the reference here to the lessons of the Paris Commune is an important point made by Lenin in one of his writings in evidence, and will be later considered in relation to Lenin's teachings. At this juncture, this Opinion is concerned with the view of Marx and Engels, expressed here, that the *practical application* of the Manifesto's principles would *always* depend on the existent historical conditions, and therefore, the revolutionary measures conditionally proposed in the Manifesto were not specially stressed.

The Manifesto's third section deals with an analysis of Socialist and Communist literature, which is not particularly germane here. The fourth section of the Manifesto discusses the Communists' support of the immediate aims of the working class, without losing sight of the ultimate objective. In this section the Manifesto declares that "in short, the Communists everywhere support every revolutionary movement against the existing social and *political* order of things", and "in all these movements * * * bring to the front, as the leading question in each case, the prop-

erty question, no matter what its degree of development at the time" (p. 44 of Ex.19).

Immediately following this declaration, the Manifesto precedes its classic closing exhortation with the following sentence: "Finally, they (Inspector's Note: the Communists) labor everywhere for the union and agreement of the democratic parties of all countries" (p. 44 of Ex. 19). The Manifesto then calls upon the workingmen of all countries to unite, and bombastically closes as follows:

> "The Communists disdain to conceal their views and aims. They openly declare that their ends can be attained only by the forcible overthrow of all existing social conditions. Let the ruling classes tremble at a Communist revolution. The proletarians have nothing to lose but their chains. They have a world to win.
>
> "Workingmen of all countries, unite!"

Now this inciting closing passage, in setting forth that the Communists openly declare that their ends can be attained *only* by the forcible overthrow of all existing social conditions, appears to be inconsistent with the conditional statement quoted earlier: "if the proletariat during its contest with the bourgeoisie is compelled, by force of circumstances, etc.". The closing passage appears to declare unequivocally that the Communist objective necessarily will require forcible action in overthrowing all existing social conditions, whereas the earlier quoted postulation conditions the necessity for forcible action upon circumstances (thus allowing for situations where forcible action might not be required). In this connection, it is noted that the preface declares that the practical application of the Manifesto's principles will depend "everywhere and at all times, on the historical conditions for the time being existent".

It is therefore to be observed that the Communist Manifesto predicates this fundamental Marxist dogma; the class struggle is a more or less veiled civil war in modern Society between the bourgeoisie, which is the ruling class exploiting the means of production, and the workers (the proletariat) which is the principal oppressed class, and which ever increases in numbers because of the constant development of the means of production; the fall from dominant

power in Society of the bourgeoisie, and the commensurate rise to supremacy of the proletariat, are both historically inevitable; and political power in Society is merely the organized power of the dominant class for oppressing other classes. The Manifesto advocates the formation of the proletariat into an organized class, the overthrow of the supremacy of the bourgeois class and the conquest of political power by the proletariat. Yet, while declaring that the violent overthrow of the bourgeoisie will lay the foundation for the rule of the proletariat and that the ends of the Communists can be attained only by the forcible overthrow of all existing social conditions, it equivocally states that the formation of the proletariat into a class, its making itself the ruling class by a revolution, and its sweeping away by forces of the existing conditions of production, are dependent everywhere and at all times on the existing historical conditions.

It is clear from the foregoing that the Communist Manifasto advocates the overthrow of the bourgeoisie, and that in accordance with its formulation of the class struggle, the United States is a country wherein the bourgeoisie is the dominant ruling class. The principles enunciated, and the objectives advocated, in the Communist Manifasto, applied to the United States today, may well be interpreted to encompass advocacy of the forcible overthrow of the rule of the bourgeoisie in the United States. Yet at the same time, the Manifesto's conditioned declaration with respect to force; its advocacy of the union and agreement of the democratic parties existing in all countries; and its championship of every revolutionary movement against the existing social and political order of things, when applied to the present day, lend support to an interpretation that the Manifesto advocates the peaceable accession to political power of the proletariat under the historical conditions presently found in the United States. It would be presumptive to assert that circulation or distribution of the Manifesto is within the ban of the Statute, or to determine arbitrarily which one or the other of these two possible interpretations of the Manifesto is advocated by a present day organization that bases its principles on the Manifesto—particularly when, as Lenin in his writings which are here in evidence clearly points out, the Manifesto and other utterances of Marx and Engels have been

interpreted (Lenin says misinterpreted) by serious students thereof to constitute advocacy of the coming into political power of the proletariat by peaceable and gradual means (pp. 7, 54, 55, and 86 to 100 incl., of Ex. 20).

The fact that the Manifesto is indeterminate with respect to the crucial issue is observed by Lenin, himself, who indisputably is an authority on Marxism. In his treatise "State and Revolution" (Ex. 20) (cited below), he points out that the Communist Manifesto treated the question of the State "extremely in the abstract, in the most general terms and expressions". In this connection, Lenin concludes (p. 25 of Ex. 20):

> "In the COMMUNIST MANIFESTO are summed up the general lessons of history, which force us to see in the State the organ of class domination, and lead us to the inevitable conclusion that the proletariat cannot overthrow the bourgeoisie without first conquering political power, without obtaining political rule, without transforming the state into the "proletariat organized as the ruling class"; and that this proletarian state will begin to wither away immediately after its victory, because in a society without class antagonisms, the state is unnecessary and impossible. *The question as to how, from the point of view of historical development, this replacement of the capitalist state by the proletarian state shall take place, is not raised here.*
> "It is precisely this question that Marx raises and solves in 1852 * * *". (Inspector's Note: Italics supplied; capitals represent italics in original.)

And it is also *precisely* in the process of his dissertation here in evidence upon the question of how, from the point of historical development, the capitalist state *shall* necessarily be done away with, and *shall* necessarily be replaced by a proletarian state, that Lenin makes his theoretical advance upon Marxism. In the process, Lenin shows where the Socialist "opportunists" err in interpreting "true" Marxism—he particularly castigates one Karl Kautsky, who, according to Lenin, was the best known leader of the Second International (p. 6 of Ex. 20). Lenin thus reveals which of the two possible interpretations he advo-

cated—and in elucidating the theory, strategy and tactics of Marxism in relation to the coming into power of the proletariat, Lenin adduces his ideological contribution to Marxism-Leninism.

There are in evidence only two of Lenin's theoretical writings: "State and Revolution" and "'Left Wing' Communism, An Infantile Disorder", and a pamphlet by Lenin entitled "A Letter to American Workers" (Exs. 20, 21 and 48); also two writings by Stalin on the subject of "Leninism", entitled "Foundation of Leninism" and "Problems of Leninism" (Exs. 22 and 23). The Examining Inspector apparently considered these sufficiently representative of the "Leninist" ideology. As has already been noted, a 1937 report of the Communist Party of the U. S. A. cited Lenin's "'Left Wing' Communism, An Infantile Disorder" as being a necessary supplement to the great polemics of Marx and Engels and also showed reliance upon Stalin's elucidations of Lenin's teachings (pp. 45 and 46 of Ex. 37). Quotations from and references to these writings of Lenin and Stalin in evidence likewise abound in many of the other documents here in evidence. Moreover, the authenticity and doctrinal importance of the above-mentioned writings of Lenin and Stalin have been established through the testimony of the witnesses (R. 155 to 159 incl.; 260 and 261; 329 to 335, incl.; 479 to 481, incl.).

Counsel was pressed, in connection with the testimony of respondent's witness, Schneiderman, to put into evidence writings of Lenin, alleged by the witness to be counter to the tenor of those put in evidence by the Government, but Counsel chose not to do so.

The witness, Schneiderman, had made certain generalities with respect to Lenin's teachings under examination by the Examining Inspector and under questioning by the Presiding Inspector. These generalizations, in substance, were: while Marxism-Leninism did not have as a basic tenet the use of parliamentary means to attain political power, yet that ideology included the view that political supremacy could be achieved in a peaceful and democratic manner through parliamentary (legal) procedures (R. 366), if, under certain conditions, no attempt were made to prevent it by violence (R. 369); the teachings of Lenin contained in "State and Revolution", and the writings of

Stalin were applicable only to countries that had the same "historical conditions" as Russia (R. 393, and 403 to 406 incl.); and the Soviets were peculiarly a Russian phenomenon (R. 427 and 428). When asked to furnish references to Lenin's or Stalin's writings to substantiate his generalities, the witness stated that he would submit documents of Lenin, or references to Lenin's writings, which would support them (R. 367, 368 and 406).

At the point where this witness reiterated his contention that "Leninism" considered the Soviets to be *peculiarly* a Russian phenomenon, and was pressed for corroboration of his statement, the witness endeavored to quote from what he stated was Volume VII of the Selected Works of Lenin. The Examining Inspector objected to the witness' reading an excerpt into the record, unless the writing from which it was taken was offered in evidence. Counsel was asked by the Presiding Inspector to submit the document whence the quotation came, but Counsel demurred. Counsel was willing only to have the record reflect that the witness had quotations available to support his generalizations (R. 429). Accordingly, the Presiding Inspector sustained the objection of the Examining Inspector and the proffered quotation was not allowed in evidence (R. 432). Counsel thereafter desired to put into the record an "offer of proof" with respect to these excerpts (R. 484). The Presiding Inspector then strongly urged upon Counsel to submit in evidence the entire document if any part thereof was helpful to the respondent's case, particularly since it was the view of the Presiding Inspector that the question involved had an important bearing upon the issues (R. 485 and 486). It was made clear to Counsel that Counsel need offer only the literary work from which the excerpts were taken, and that it was not required that the entire works of Lenin be submitted (R. 487). However, Counsel stood on the refusal to submit the entire writing of Lenin from which the excerpts had been taken. The determination of the Presiding Inspector thereupon was that, like the excerpts, the "offer of proof" was incompetent as evidence (R. 487 and 488). However, with the concurrence of both sides, the quotation, which the witness contended supported his generalization that the Soviets were a peculiarly Russian phenomenon, was permitted to

be stated (but is not to be considered with the record) (R. 433).[3]

Now here the Presiding Inspector expressed, in a strong manner, his view that if Counsel had competent evidence bearing directly upon the issue, it was incumbent on Counsel to submit it in evidence. The reason Counsel advanced for not placing in the record the complete literary work from which the excerpts were selected was the cost of printing the record if it became necessary to take the case to the courts (R. 487).

It is the opinion of the Presiding Inspector that the reason given by Counsel is insubstantial and appears to be only a pretext. The Presiding Inspector has made it clear, both in this Opinion and in the original Opinion, that it is his view that excerption, without reference to the whole writing, is an improper practice, since excerpts taken out of context are subject having their import distorted or entirely misinterpreted. It is noted that Counsel's Memorandum (erroneously) attributed to the Presiding Inspector's Opinion the defect of taking excerpts out of context (M. 4 and 5). Yet here Counsel inconsistently requests that the very defect which Counsel criticized be incorporated into the record of this hearing. The Presiding Inspector is firmly convinced that it is error to consider excerpts without their context, and hence, that excerpts, alone, are incompetent as evidence. Considering the flimsiness of Counsel's excuse for refusing to submit the whole document in evidence, the inference is inescapable that the production of the entire writing would not

3. The quotation given by the witness appears at page 38 in the writing "The Proletarian Revolution and Renegade Kautsky" by Lenin, which is available in pamphlet form as Volume 21 of the Little Lenin Library published by International Publishers, New York. Taking this particular quotation from its context results in a possible crass distortion of its meaning. Within its context, it is clear that the quotation merely says that the Soviets arose in Russia as an all-embracing proletarian organization and does not imply that the Soviet system is deemed to be peculiarly limited to Russia. It is important to note that in this work Lenin, considered the Soviets (as a Paris Commune type of State) to be superior to any bourgeois parliamentary republic (p. 46), and taught that Russian Bolshevism (including the Soviets as a form of the Dictatorship of the Proletarians) "can serve as a model of tactics for all" proletarian revolutions (pp. 72 and 73). The most important point made in this writing of Lenin is that a Dictatorship of the Proletariat (particularly one of the Paris Commune type—a Soviet State), is the machinery by which the proletariat must attain political supremacy and smash the dictatorship of the bourgeoisie (be it republic or any other form of bourgeois state).

have helped respondent's case—either the context would not have borne out the witness' generalizations, or else the document, as an entity, contained a preponderance of matter derogatory to the respondent's side of the issue, and Counsel did not desire it in the record.

It is the determination, therefore, of the Presiding Inspector that the writings of Lenin and Stalin in evidence are entitled to consideration on their own merits as representing fundamental "Leninist" teachings of Lenin and Stalin. This conclusion is reinforced by a philosophic study of them, which discloses that they are complete treatises in themselves upon fundamental "Marxist-Leninist" concepts. It is noteworthy in this connection that these writings, as the testimony of the witnesses reveal, were circulated and distributed in individual form by the Communist Party of the U. S. A. The listing on the rear cover of "State and Revolution" by the publishing firm (which, as heretofore mentioned, the evidence indicates to have been closely connected with the Communist Party of the U. S. A.) terms them "classics on the theory and practice of Leninism".

"State and Revolution" represents Lenin's analysis of the nature of the State and its forms in bourgeois countries, and his exposition of the necessity for proletarian dictatorship. Careful examination of this work of Lenin convinces the Presiding Inspector of its major importance in shaping the "Marxist-Leninist" precepts of the organizations involved in the charges in this case.

It must be observed, as the postscript to the treatise states, that "State and Revolution" was written by Lenin in August and September 1917, and first published in 1918, after the October Revolution of 1917 had brought the Communists into political dominance in Russia (p. 101 of Ex. 20). Adverting for the moment to Lenin's other major writing (written in 1920) in evidence, " 'Left Wing' Communism, An Infantile Disorder", the historical fact is noted therefrom (a fact of which official notice may be administratively taken anyway) that the bourgeois revolution that deposed the Czar in Russia, and put an end to Czarism occurred in February 1917, whereas the successful Socialist revolution led by the Bolsheviks (Russian Communist Party) occurred in October 1917 (p. 44 of Ex. 21). Writing

in this treatise with respect to the February 1917 bourgeois revolution in Russia, Lenin sets forth (p. 15 of Ex. 21):

> "Within a few days Russia was transformed into a democratic bourgeois republic, more free—under war conditions—than any other country in the world. The leaders of the opposition and revolutionary parties began to set up a government, just as is done in the most 'strictly parliamentary' republics . . .".

The significant fact to be gleaned from this passage of Lenin is: the regime that the Bolsheviks overthrew in October 1917 in Russia was *not Czarism*, but was the *democratic bourgeois republic* set up in February 1917, following the deposition of the Czar. Bearing even greater importance upon the point here being considered is Lenin's factual assertion (p. 16 of Ex. 21):

> "Contrary to the views that are now often to be met with in Europe and America, the Bolsheviks began their victorious struggle against the parliamentary (actually) bourgeois republic and against the Mensheviks very cautiously, and the preparations they made for it were by no means simple. We did NOT call for the overthrow of the government at the beginning of the period mentioned, but explained that it was impossible to overthrow it UNTIL the composition and the sentiments of the Soviets had changed. We did not proclaim a boycott of the bourgeois parliament, the Constituent Assembly, but declared—and since the April (1917) Conference of our Party declared officially in the name of the Party—that a bourgeois republic with a Constituent Assembly is better than a bourgeois republic without a Constituent Assembly, but that a 'workers' and 'peasants republic', a Soviet republic, is better than any bourgeois—democratic, parliamentary republic. Without such careful, thorough, circumspect, and prolonged preparation we could not have obtained victory in October 1917, nor have maintained that victory." (Inspector's Note: Capitals represent italics in the original.)

(What, then, is the effect of the witness, Schneiderman's allusion to the "historical conditions" in Russia? As

shall be observed, the most essential historical condition there for the seizure of power by the Communists was the weakness of the Russian bourgeois republic—its inability to put down revolutionary action against it.)

When this historical fact—that the bourgeois republic set up in February 1917 was the Russian governmental entity overthrown by the Bolsheviks in October 1917—is borne in mind, the fact that "State and Revolution" was written in August and September 1917, and first published in 1918, becomes significant. It was written in contemplation of political action to be taken against a republican government in Russia, and it was published only after the October Bolshevik revolution had succeeded. Its publication, then, had a larger purpose than merely justifying the practical application of its principles in Russia. (It is a historical fact, of which official notice is administratively taken, that the Third Communist International was organized in Moscow, U.S.S.R., in March, 1919.) "State and Revolution" appears to be a theoretical work intended for general, rather than limited, application, as examination of its teachings discloses.

In the preface, Lenin at the very outset declares (p. 5 of Ex. 20):

> "An international proletarian revolution is clearly rising. The question of its relation to the State is acquiring a practical importance."

Significant indeed it is that Lenin here declares that the relation of the *international* proletarian revolution to the State is important. He immediately thereafter scornfully refers to the social-chauvinism of the "official Socialist parties of the whole world" (p. 5 of Ex. 20). Clearly his purview encompassed more than Russia or countries in similar "historical conditions", as the witness Schneiderman, puts it.

Then, very importantly, Lenin sets forth in the preface the scope of his treatise, "State and Revolution" (p. 6 of Ex. 20):

> "We first of all survey the teachings of Marx and Engels on the state, dwelling with particular fullness on those aspects of their teachings which *have been forgotten* or *opportunistically distorted*. We then

analyse specially the chief representative of these distorters, Karl Kautsky, the best known leader of the Second International (1889-1914), who has suffered such a pitiful political bankruptcy during the present war. Finally we sum up, in the main, the experiences of the Russian Revolution of 1905, and particularly that of 1917. The revolution is evidently completing at the present time (beginning of August, 1917) the *first stage* of its development; but generally speaking, *this revolution can be understood in its totality only as a link in the chain of Socialist proletarian revolutions called by the imperialist war.* The question of the relation of a proletarian Socialist revolution to the States acquires, therefore, not only a *practical political importance,* but the importance of an urgent problem of the day, *the problem* of elucidating to the masses what they will *have to do for their liberation from the yoke of capitalism in the very near future.*"

(Inspector's Note: Italics supplied.)

Now here Lenin states that the purpose behind the writing of the pamphlet "State and Revolution" was to meet the urgent problem of making clear to the masses what they shall have to do to overthrow the oppression of capitalism in a *series* of Socialist proletarian revolutions. There can be no question but that with such a purpose, "State and Revolution" ranges beyond any narrow application to Russia alone.

The thesis advanced by Lenin in this work is that the revolutionary side of Marxism, the teachings of Marx and Engels, had, in the course of history since their lifetime, been distorted and obliterated. He sets out as his first task "to RESUSCIATE the real teachings of Marx on the state" (p. 7 of Ex. 20).

The first chapter of "State and Revolution" entitled "Class Society and the State" actually constitutes the essence of Lenin's "resuscitation" of the teachings of "Marxism" in relation to the bourgeois state. The sections of this first chapter, linked together, make up the whole of Lenin's "revolutionary Marxist" dictum on the bourgeois State—: (1) the bourgeois State is the product of the irreconcilability of class antagonisms in bourgeois Society;

(2) special bodies of armed men, and such appendages as prisons and other repressive institutions of all kinds constitute the "public force" of the bourgeois State; (3) the bourgeois State is the instrument of the bourgeoisie for the exploitation of the oppressed classes in bourgeois Society; and (4) only through a *violent revolution* can the bourgeois State be replaced by the proletarian State—the Dictatorship of the Proletariat—and this proletarian State is the Socialist State that will "wither away" when the final social objective—Communism—is attained.

To revive what Lenin terms "the revolutionary soul" of "Marxism" Lenin quotes extensively from the writings of Marx and Engels. He begins by citing from Engels' writings to bring out what Lenin considers to be the basic idea of "Marxism" on the question of the historical role and meaning of the State. This fundamental point is that "the state is the product and the manifestation of the IRRECONCILABILITY of class antagonisms. The state arises when, where, and to the extent that the class antagonisms CANNOT be objectively reconciled. And conversely, the existence of the state proves that the class antagonisms ARE irreconcilable" (p. 8 of Ex. 20). It is very important to note this basic "Marxist-Leninist" proposition; any State is the product of class antagonisms within it and its existence demonstrates that such class antagonisms cannot be reconciled.

Lenin condemns the bourgeois, and petty-bourgeois ideologists who "'correct' Marx in such a way as to make it appear that the state is an organ for RECONCILING the classes". Lenin cites Marx for the view that "the state is an organ of class DOMINATION, an organ of OPPRESSION of one class by another" and contends that "according to Marx, the state could neither arise nor maintain itself if a reconciliation of classes were possible" (p. 9 of Ex. 20).

Then, significantly, Lenin, in his analysis here, excoriates the "Kautskyist" distortion of Marx, which he terms subtle. This is particularly important because of his closing denunciation of Kautsky. Lenin declares that what "Kautskyism" forgets or glosses over in Marxism is: the state, being the product of the irreconcilable character of class antagonisms, is a force standing above society, and "*the liberation of the oppressed class is impossible not only without a violent revolution, but also without the destruction of the apparatus of state power, which was created by*

the ruling class". (p. 9 of Ex. 20). Here Lenin states very clearly that the freeing of the proletariat (recalling the Marxist view of it as the major oppressed class in modern Society) from the oppression of the bourgeoisie is impossible of achievement without a violent revolution and without the destruction of the bourgeois state machinery whereby the bourgeoisie obtained and maintains its dominant power in Society.

Lenin, then considers what is the "public force" whereby the State compels observance of the dictates of its state machinery. He declares: "A standing army and police are the chief instruments of state power" (p. 10 of Ex. 20). He then underlines this conclusion by observing:

> "A state is formed, a special power is created in the form of special bodies of armed men, and every revolution, by shattering the state apparatus, demonstrates to us how the ruling class aims at the restoration of the special bodies of armed men at ITS service, and how the oppressed class tries to create a new organization of this kind, capable of serving not the exploiters, but the exploited." (Inspector's Note: Capitals represent italics in the original.)

Here Lenin makes the vital point that the armed forces and police are the special bodies which serve as the instrumentalities by which the state power (being the organ of the domination of one class over another) is maintained, and that every class revolution aims to shatter this state apparatus, and the power by which it is enforced, of the old ruling class, and to create a new organization of special armed bodies of men to effectuate the governmental dictates of the new ruling class.

(At this point Lenin discourses upon the progress of imperialism in North America, as well as in France, England, and Germany (pp. 11 and 12 of Ex. 20). Clearly Lenin considered a world picture, and not merely Russia, in this work.)

Lenin then quotes from Engels to the effect that "the modern representative State is the instrument of the exploitation of wage-labour by capital"—which is a reiteration of the Marxist premise that any bourgeois state is the organ by which the bourgeois ruling class keeps in

subjugation the oppressed proletarian class. Lenin here applies this thesis to the Kerensky government (which was in control in Russia in August 1917) by stating that "such", meaning an instrument of the exploitation of wage-labour by capital, "is now the Kerensky government in republican Russia after its shift to persecuting the revolutionary proletariat, at a moment when the Soviets, thanks to the leadership of the petty-bourgeois democrats, have ALREADY become impotent, while the bourgeoisie is NOT YET strong enough to disperse them outright" (p. 12 of Ex. 20). In other words, the Russian bourgeois democratic government with its Constituent Assembly was too weak in August 1917 to compel the dispersal of the revolutionary assemblages, the Soviets, which through the machinations of the bourgeois parties had by then lost their (armed) power (Lenin notes that on June 22d, the Menshevik minister, Tseretelis, directed the disarming of the Petrograd workers (p. 63 of Ex. 20)).

Lenin further quotes from Engels, and elaborates upon this fundamental Marxist (and here it becomes through Lenin's advocacy "Marxist-Leninist") thesis in the following salient passage of general import in relation to countries like the United States (pp. 13 and 14 of Ex. 20):

> "In a democratic republic, Engels continues 'wealth wields its power indirectly, but all the more effectively' first by means of 'direct corruption of the officials' (America); second by means of 'the alliance of the government with the stock exchange' (France and America).
>
> "At the present time, imperialism, and the domination of the banks have 'developed' to an unusually fine art both these methods of defending and asserting the omnipotence of wealth *in democratic republics of all descriptions.* If, for instance, in the very first months of the Russian democratic republic, one might say during the honeymoon of the union of the 'Socialists'—Social-Revolutionaries and Mensheviks—with the bourgeoisie, Mr. Palchinsky obstructed every measure in the coalition cabinet, restraining the capitalists and their war profiteering, their plundering of the public treasury by means of army contracts; and if, after his resignation, Mr. Palchinsky (replaced, of course, by an exactly similar Palchin-

sky) was 'rewarded' by the capitalists with a 'soft' job carrying a salary of 120,000 rubles per annum, what was this? Direct or indirect bribery? A league of the government with the capitalist syndicates, or 'only' friendly relations? What is the role played by the Chernovs, Tseretelis, Avksentyevs and Skobelevs? Are they the 'direct' or only the indirect allies of the millionaire treasury looters?

"*The omnipotence of 'wealth' is thus more secure in a democratic republic,* since it does not depend on the poor political shell of capitalism. *A democratic republic is the best possible political shell for capitalism,* and therefore, once capital has gained control (through the Palchinskys, Chernovs, Tseretelis and Co.) of this very best shell, *it establishes its power so securely, so firmly that* NO *change, either of persons, or institutions, or parties in the bourgeois republic can shake it.*

We must also note that Engels quite definitely regards *universal suffrage as a means of bourgeois domination.* Universal suffrage, he says, obviously summing up the long experience of German Social Democracy is an 'index of the maturity of the working class'; *it cannot, and never will, be anything else but that in the modern state.*" (Inspector's Note: Italics supplied: capitals represent italics in the original.)

(When this quoted passage is considered in its context, the falsity becomes readily apparent of the assertion by the witness, Schneiderman, that the reference here to "Palchinskys, Chernovs, Tseretelis and Co." shows that the point here is connected exclusively with the Russian situation (R. 522). The reference to these Russian individuals is illustrative of Lenin's larger thesis, which comprehends all democratic republics.)

The question of the extent to which this fundamental "Marxist-Leninist" precept correctly analyzes the nature of the bourgeois state as represented by the bourgeois democratic republic is irrelevant. The significance of this concept lies in the fact of its being a basic principle of "Marxism-Leninism"—the fact that Communist strategy and tactics to attain the objective of State power for the

proletariat proceed upon the premise that the democratic republic is the form of government best suited for maintaining the political domination of the bourgeois ruling class and that universal suffrage (the unrestricted right to vote) only serves in a democratic republic to keep the bourgeoisie in political power. Careful study of all the documents in evidence convinces the Presiding Inspector that this guiding precept is the cardinal point of departure for the Communist ideology—the cornerstone on which the edifice of the "Program" of the Communist International is built, and the keystone of Communist strategy, as shall be observed, to achieve political dominance in the United States.

Lenin emphasizes this exact point by declaring that the Social Revolutionaries and Mensheviks in Russia, and the Socialists in Western Europe err in expecting more from universal suffrage than Engels' observation that it is only "an index of the maturity of the working class". Lenin states that these Social Revolutionaries, Mensheviks and Socialists "share, and instil into the minds of the people, the wrong idea that universal suffrage 'in the MODERN state' is really capable of expressing the will of the majority of the toilers and of assuring its realization". Here Lenin flatly rejects the view that the ballot box can lead to socialism. He says that universal suffrage in the modern state *cannot* lead to the overthrow of bourgeois domination. (The witness, Schneiderman, and the respondent appear to stand in contradiction to this postulation of Lenin when they declare that the Communists contemplated the possibility of the establishment of socialism in the bourgeois democratic republic—the United States of America—through expression of the will of the electorate at the polls.)

The key to an understanding of this Leninist premise, which on its face appears to run counter to all popular notions of "democracy" in a bourgeois republic, such as the United States, lies in comprehension of the Leninist general "indictment" of bourgeois "democracy". This point of view is discussed below.

Lenin in this treatise, then proceeds to "a detailed analysis of all the falseness of this idea" (p. 14 of Ex. 20). He discusses the generally held misconception of Engels' words regarding the "withering away" of the state, pointing out that it is only *after* the proletariat seizes state power and then transforms the means of production into

state property that the state begins to "wither away" (p. 15 of Ex. 20). He clearly states (p. 17 of Ex. 20):

> "* * * Engels speaks here of the destruction of the bourgeois state by the proletarian revolution, while the words about its withering away refer to the remains of PROLETARIAN statehood AFTER the Socialist revolution. The bourgeois state does not 'wither away', according to Engels, but is 'put an end to' by the proletariat in the course of the revolution. What withers away after the revolution is the proletarian state or semi-state." (Inspector's Note: Capitals represent italics in the original.)

Then Lenin precisely shows the indispensable need for the "Dictatorship of the Proletariat". Since it is the fundamental axiom of the Marxist Leninist theory that modern Society is composed of irreconcilable classes, and the present ruling class, the bourgeoisie, through the state apparatus, suppresses the proletariat, then, when the proletariat "seizes power", i.e., gets the upper political hand, the proletariat, as the dominant political class must need suppress the bourgeoisie. "The state is a 'special repressive force' * * * (this) 'special repressive force' of the bourgeoisie for the suppression of the proletariat, of the millions of workers by a handful of the rich, must be replaced by a 'special repressive force' of the proletariat for the suppression of the bourgeoisie (the dictatorship of the proletariat)" (p. 17 of Ex. 20).

Lenin then concludes (p. 17 of Ex. 20):

> "The bourgeois state can only be 'put an end to' by a revolution. The state in general * * * (Inspector's Note: after the Dictatorship of the Proletariat has been set up) * * * can only 'wither away'."

Now Lenin here make the trenchant observation that Engels' proposition regarding the withering away of the state was directed not only against the Anarchists (who desired an end to all government at once), but also against the political opportunists (who would take advantage of opportunities for political gains within the framework of the bourgeois state without considering whether these gains advance towards or away from the ultimate objective of a communal society). Lenin's excoriation of the "oppor-

tunists" in this writing is very important in view of his closing condemnation of the opportunism of Kautsky (which will be touched upon later). Lenin points out that while Engels "justified" a demand for a "people's free state" in Germany in the 1870s, the slogan was opportunistic in nature because it exaggerated the attractiveness of bourgeois democracy, while lacking an understanding of the Socialist criticism of *every (bourgeois) state*. Lenin declares that while the Communists "are in favor of a democratic republic as the best form of the state for the proletariat under capitalism", they "have no right to forget that *wage slavery is the lot of the people even in the most democratic bourgeois republic*" (p. 18 of Ex. 20). It shall later be observed why the Communists prefer a bourgeois democratic republic as the best form of the bourgeois state for their purposes.

Lenin then considers Engels' disquisition on the significance of a violent revolution, and quotes Engels' argument in refutation of one Herr Duhring on the point, Lenin thereupon asks how the Social Democrats combine Engels' panegyric on violent revolution with Engels' theory of the "withering away" of the state. He asserts that they combine them by an illusory selective method, which emphasizes only the "withering away" of the state. This Lenin denounces as an adulteration of Marxism, as opportunism. Properly, says Lenin (pp. 19 and 20 of Ex. 20):

> "* * * the teaching of Marx and Engels regarding the inevitability of a violent revolution refers to the bourgeois state. It CANNOT be replaced by the proletarian state (the dictatorship of the proletariat) through 'withering away', but, as a general rule, only through a violent *revolution* * * *. The necessity of systematically fostering among the masses* THIS *and just this point of view about violent revolution lies at the root of the* WHOLE *of Marx's and Engels' teaching.* The neglect of such propaganda and agitation by both the present predominant social-chauvinist and the Kautskyist current brings their betrayal of Marx' and Engels' teaching into prominent relief.
>
> "*The replacement of the bourgeois by the proletarian state is impossible without a violent revolu-*

tion. The abolition of the proletarian state, i.e., of all states, is only possible through 'withering away'."

(Inspector's Note: Italics supplied; capitals represent italics in original.)

It is this expression by Lenin of the thesis that violent revolution is indispensable in the process of replacing the bourgeois state (in all its forms) with the proletarian state (dictatorship of the proletariat) that is the heart of "State and Revolution", and it is the insistence upon the necessity of systematically fostering among the masses this very thesis which constitutes Lenin's essential teaching therein.

Lenin terms the formulation by Marx and Engels of the idea "on the subject of the state, namely the idea of the 'dictatorship of the proletariat'" as "one of the most important ideas of Marxism" (p. 22 of Ex. 20). (The witness, Schneiderman, in claiming that he has "never understood the dictatorship of the proletariat to represent a state form" (R. 533), apparently has never comprehended this "most important idea of Marxism". This idea of the "Dictatorship of the Proletariat" is more fully discussed later, following consideration of the teachings in Lenin's other major writing in evidence".

The primary interest of this Opinion in "State and Revolution" is concerned with the whole of Lenin's teaching as to the mechanics of the process whereby the proletariat is to come into political power in a bourgeois democratic republic, such as the United States. Lenin postulates (pp. 23 and 24 of Ex. 20):

> "The overthrow of bourgeois rule can be accomplished only by the proletariat, as the particular class, which, by the economic conditions of its existence, is being prepared for this work and is provided both with the opportunity and the power to perform it. While the capitalist class breaks up and atomises the peasantry and all the petty-bourgeois strata, it welds together, unites, and organizes the town proletariat. Only the proletariat—by virtue of its economic role in large-scale production—is capable of leading ALL the toiling and exploited masses, who are exploited, oppressed, crushed by the bourgeoisie, not less, and often more, than the proletariat, but

who are incapable of carrying on the struggle for their freedom INDEPENDENTLY.

"The doctrine of the class struggle, as applied by Marx to the question of the state and of the Socialist revolution, leads inevitably to the recognition of the POLITICAL RULE of the proletariat, of its dictatorship, i.e., of a power shared with none and *relying directly upon the armed force of the masses.* The overthrow of the bourgeoisie is realizable only by the transformation of the proletariat into the RULING CLASS, able to crush the inevitable and desperate resistance of the bourgeoisie, and to organize, for the new economic order, ALL the toiling and exploited masses.

"The proletariat needs state power, *the centralized organization of force, the organization of violence,* both for the purpose of crushing the resistance of the exploiters and *for the purpose of* GUIDING *the great mass of the population—the peasantry, the petty-bourgeoisie, the semi-proletarians*—in the work of organizing Socialist economy.

"By educating *a workers' party,* Marxism educates the vanguard of the proletariat, *capable of assuming power and of* LEADING THE WHOLE PEOPLE to Socialism, of directing and organizing the new order, of being the teacher, guide, and leader of all the toiling and exploited in the task of building up their social life without the bourgeoisie and against the bourgeoisie. * * *

"'The state, i.e., the proletariat organized as the ruling class'—this theory of Marx's is indissolubly connected with all his teaching concerning the revolutionary role of the proletariat in history. The culmination of this role is proletarian dictatorship, *the political rule of the proletariat.*" (Inspector's Note: Italics supplied; capitals represent italics in original.)

The foregoing dictum of Lenin is highly interesting. He asserts: Only the proletarian class can overthrow bourgeois rule and make itself the ruling class in society through a proletarian dictatorship; Marxism educates the workers' party—the Communist Party—as the leaders of the pro-

letarian class capable of assuming power and leading the people (in other words, the Communist Party takes power for the proletariat); at the time the Communist Party assumes state power for the proletarian class, *the great mass of the people*, the great majority of the population, is not the proletarian class, but the combination of the poorer agricultural class, the lesser bourgeoisie, and the workers who have not yet been reduced to the proletarian level of relying wholly on the sale of their labor; *and* STATE POWER IS THE CENTRALIZED ORGANIZATION OF FORCE AND VIOLENCE IN THE HANDS OF THE RULING CLASS. It must be carefully observed that here Lenin postulates that at the time of the coming into power of the proletariat, the Communist Party is but a *portion* of the proletariat, and the proletariat itself is *not* the vast mass of the population.

Lenin then asks the question which he proceeds to answer: if the proletariat needs state power, can it create its own organization of state power without first breaking-up and destroying the state machinery of the bourgeois state which serves the bourgeoisie? (p. 24 of Ex. 20).

Lenin emphatically answers in the negative by quoting at length from Marx and Engels to the effect that the whole state machinery of the bourgeois state must be shattered and broken to pieces in the proletarian revolution (pp. 24 and 25 of Ex. 20). Lenin emphasizes here (as has been already set forth) that the centralized state power peculiar to bourgeois society has two especially characteristic institutions: bureaucracy and the standing army, which "constitute a 'parasite' on the body of bourgeois society—a parasite born of the internal antagonisms which tear that society asunder" (p. 26 of Ex. 20). Lenin states that these institutions are connected with a "thousand threads" to the bourgeoisie, and "the experience of every worker illustrates this connection in the clearest and most impressive manner". He asserts that "the development, perfecting and strengthening of the bureaucratic and military apparatus has been going on through all the bourgeois revolutions of which Europe has seen so many since the fall of feudalism" (p. 26 of Ex. 20). Lenin cites the handling of government posts and the *shelving of serious reforms* in the Russian democratic republic of 1917 as an example of this process, and declares that the longer this process goes

on of positions in the bureaucratic apparatus changing hands among the bourgeois parties without any material change in the conditions oppressing the masses being accomplished, *"the more clearly the oppressed classes, with the proletariat at their head, realize that they are irreconcilably hostile to the* WHOLE *of bourgeois society"*. The more clearly the oppressed classes led by the proletariat perceive their antagonism to the bourgeois society, the more necessary it becomes *"for all bourgeois parties,* EVEN FOR THE DEMOCRATIC, AND 'REVOLUTIONARY-DEMOCRATIC' AMONG THEM, *to increase their repressive measures against the revolutionary proletariat, to strengthen the apparatus of repression, i.e., the same state machinery"* (p. 27 of Ex. 20).

The overwhelming importance in relation to the central issue in this case of this teaching of Lenin requires emphasis. Lenin here lays down the precept that in a crisis in the bourgeois state, what happens is that official positions are redistributed or "reapportioned" among the various bourgeois parties but serious reforms are not accomplished. Lenin says here in substance that the bureaucratic apparatus of the bourgeois state is an organ of the domination of the big bourgeoisie; that the holders of the controlling posts in that bureaucratic machinery necessarily must enforce the interests of the bourgeoisie in any crisis evoked by the irreconcilable struggle between the classes; that as the oppressed classes more clearly come to realize that serious reforms are put off by the bureaucrats serving the interests of the bourgeoisie, they become more and more aware of their irreconcilable hostility to all of the bourgeois society (Inspector's Note: hence more ready to countenance action taken against the bourgeoisie), and it becomes necessary for whatever bourgeois party is in the governmental saddle, even if it is most democratic, to increase its measures restraining the proletariat from taking revolutionary action; and such measures that all bourgeois governing parties must necessarily take to safeguard the bourgeois status quo entail the strengthening of the state machinery, since that machinery is the apparatus through which the oppressed classes are kept in check.

It is parenthetically noted here that Lenin later in his analysis of "parliamentarism" in the bourgeois state defines it as a special system of division of labor between the legislative and executive branches in the bourgeois

state government which provides privileged positions for the deputies. Further he terms it, "the venal and rotten parliamentarism of bourgeois society" (p. 41 of Ex. 20) and dogmatically restates his view of *all* bourgeois governments (p. 40 of Ex. 20):

> "To decide once every few years which member of the ruling class is to repress and oppress the people through parliament—this is the real essence of bourgeois parliamentarism, not only in parliamentary-constitutional monarchies, but also in the most democratic republics."

He later emphasizes this very point by quoting Marx with respect to capitalist democracy: "Marx splendidly grasped this ESSENCE of capitalist democracy, when in analyzing the experience of the Commune he said that the oppressed were allowed, once every few years, to decide which particular representatives of the oppressing class should be in parliament to represent and repress them!" (pp. 72 and 73 of Ex. 20). This view of bourgeois "democracy" is more fully explicated hereinafter in relation to the general structure of the proletarian state form espoused by Leninism.

Lenin deductively proceeds from these fundamental premises as to the nature of the bourgeois state and its governmental machinery, to the conclusion that logically flows from them: "Such a course of events (Inspector's Note: repression by bourgeois governments of the oppressed classes, leading to recognition by the oppressed classes of their irreconcilable hostility to all of bourgeois society) *compels the revolution 'to concentrate all its forces of destruction' against the state power*, and to regard the problem as one, not of perfecting the machinery of the State, but of BREAKING UP AND ANNIHILATING IT" (p. 27 of Ex. 20). It must be noted that here Lenin is referring to all bourgeois *states*, including the republican variety.

Thus Lenin's syllogism—the dogmatic core of the dialectical materialism of "Marxism-Leninism"—becomes clear: modern bourgeois society is composed of antagonistic classes; the bourgeois state is the product and manifestation of the irreconcilability of these class antagonisms; the state is the instrument or organ of the bourgeois domination over, and exploitation of, the other repressed

classes in society; among these oppressed classes, economic conditions bring forth the proletariat as the principal adversary and historical successor of the bourgeoisie; the bureaucratic machinery and standing army of the bourgeois state are its distinctive features, and are tied indissolubly to the bourgeoisie; hence the proletariat led by the Communists must break up and annihilate the bureaucratic machinery and standing army of the bourgeois state in a violent revolution, and set up the dictatorship of the proletariat to repress and overcome the resistance of the bourgeoisie and to lead the masses on to a classless society, whereupon the state, the manifestation of class antagonisms, will wither away as classes in Society vanish.

There can be no mistaking Lenin's inclusion of the United States within the purview of this syllogistic analysis which leads to the conclusion that the central task of the proletarian revolution in *all* countries is to concentrate its destructive forces upon the bureaucratic apparatus and armed instrumentalities of *all* bourgeois States. This theme of the need of the proletarian revolution FIRST to break up and destroy the bourgeois state machinery is a steady refrain throughout "State and Revolution". Lenin most graphically applies it to the United States at the point where he considers whether it is correct to generalize the conclusions of Marx upon the history of France during the three years 1848-1851—Marx analyzed the proletarian revolution there and had concluded that that French revolution had had the task of " 'concentrating all its forces of destruction' against the state, of 'breaking up' the governmental machinery" (p. 28 of Ex. 20). Lenin surveys the history of the more advanced countries, including the United States, and compares their historical conditions to those existing in France during the period 1848-1851 in the following trenchant passage, which reveals that Lenin considers Marx' observation to be applicable today to the United States and the other countries named (pp. 28 and 29 of Ex. 20):—

> "Let us, however, cast a general glance over the history of the more advanced countries during the end of the nineteenth and beginning of the twentieth centuries. We shall see that the same process (Inspector's Note: as in France from 1848-1851) has been going on more slowly, in more varied forms,

on a much wider field: on the one hand, a development of 'parliamentary power', not only in the republican countries (France, America, Switzerland), but also in the monarchies (England, Germany to a certain extent, Italy, the Scandinavian countries, etc.); on the other hand, a struggle for power of various bourgeois and petty-bourgeois parties distributing and redistributing the 'spoils' of Officials' berths, the foundations of capitalist society remaining all the while unchanged; finally, the perfecting and strengthening of *the 'executive power', its bureaucratic and military apparatus.*

"There is no doubt that these are the features common to the latest stage in the evolution of all capitalist states generally. In the three years, 1848-1851, France showed, in a swift, sharp, concentrated form, all those processes of development which are inherent in the *whole capitalist world.*

"Imperialism in particular—the era of banking capital, the era of gigantic capitalist monopolies, the era of the transformation of monopoly capitalism into state monopoly-capitalism—shows an unprecedented strengthening of the 'state machinery' and the unprecedented growth of its bureaucratic and military apparatus, *side by side with the increase of repressive measures against the proletariat, alike in the monarchical and the freest republican countries.*

"At the present time, world history is undoubtedly leading, on an incomparably larger scale than in 1852, to the *'concentration of all forces' of the proletarian revolution* for the purpose of *'destroying'* the state machinery." (Inspector's Note: Italics supplied.)

It is then very clear that Lenin's formulation of the primary task of the proletarian revolution—the destruction of the bureaucratic and armed force apparatus of the bourgeois state,—was intended by Lenin to apply to the United States. Lenin emphasizes that the United States is within the scope of his dogma by specifically pointing out that Marx's limitation, in 1871, to the continent of Europe, of his conclusion as to the necessity of breaking

up the bureaucratic and military machinery of the bourgeois state, holds true no longer (p. 34 of Ex. 20):

> "Today, in 1917, in the epoch of the first great imperialist war, this exception made by Marx is no longer valid. Both England and America, the greatest and last representatives of Anglo-Saxon 'liberty' in the sense of the absence of militarism and bureaucracy, have today plunged headlong into the all-European dirty, bloody morass of military bureaucratic institutions to which everything is subordinate and which trample everything underfoot. Today, both in England and *in America*, the '*precondition* of any real people's revolution' is *the* BREAK-UP, *the* SHATTERING *of the 'ready-made state machinery*, brought in those countries, between 1914 and 1917, to general 'European' imperialist perfection.'' (Inspector's Note: Italics supplied; capitals represent italics in original.)

If this observation of Lenin was correct in 1917, it is even more apropos relative to the Government of the United States today—inasmuch as the United States governmental machinery since 1917 has become even more of a "military bureaucratic institution". It must be noted that the "breaking-up and shattering" of the machinery of the bourgeois state is here stated to be *precondition* of any proletarian revolution in the United States, a condition coming before (or in the beginning of) a proletarian revolution. Lenin shows this to be his meaning in the following passage (p. 35 of Ex. 20):

> "To SHATTER this machinery, to BREAK IT UP,—this is the true interest of the 'people', of its majority, the workers and most of the peasants, this is the 'preliminary condition' of a free union of the poorest peasantry with the proletarians; while without such a union, democracy is unstable and Socialist reorganization is impossible." (Inspector's Note: Capitals represent italics in the original.)

Lenin then considers what shall replace the destroyed bourgeois state machinery. He postulates that the Commune, which emerged as a form of the State in the French Revolution, "constitutes the political form 'at last dis-

covered' which can and must TAKE THE PLACE of the broken machine" (p. 48 of Ex. 20).

There is set forth in "State and Revolution" a clear exposition of the nature of the "Dictatorship of the Proletariat" which must replace the bourgeois state (pp. 35 to 47 incl. of Ex. 20). However, since the matter of Lenin's teachings in both his major writings in evidence as to the form of the "dictatorship of the proletariat" is being discussed later, only those aspects germane to the point here involved need be considered now. Lenin asserts: "Overthrow the capitalists, crush with the iron hand of the *armed workers* the resistance of these exploiters, *break* the bureaucratic machine of the modern state", and then what's left of Society is a mechanism "freed of 'parasites', capable of being set into motion by the united workers themselves" (p. 43 of Ex. 20). Lenin declares that the "Commune", as a form of the dictatorship of the proletariat will be a centralized state—"will it not be centralism if the proletariat and poorest peasantry *take the power of the state in their own hands, organize themselves freely* into communes, and UNITE the action of all the communes in striking at capital, in crushing the resistance of the capitalists, in the transfer of private property in railways, factories, land, and so forth, to the ENTIRE nation, to the whole of Society?" (p. 46 of Ex. 20).

In the foregoing analysis, the Presiding Inspector has endeavored to be entirely objective in examining the content matter of "State and Revolution", bearing in mind the divergent contentions on the crucial issue cited earlier which the decision of the Supreme Court in Schneiderman v. United States, supra, stated are both tenable. But considering Lenin's postulation that elections in any bourgeois republic can never mean more than the putting into office one or the other of bourgeois parties which necessarily enforce the bourgeois supremacy in any crisis, and that the first task of a proletarian revolution is to smash the governmental machinery of the bourgeois state, it is the determination of the Presiding Inspector that only one conclusion is tenable—the inescapable conclusion that in this work Lenin advocates the use of force and violence to overthrow the Government of the United States and all other bourgeois state governments. His teachings in this treatise disclose a complete lack of faith in lawful (con-

stitutional) process in the bourgeois democratic republic. He says that from capitalist democracy—"inevitably narrow, snbtly rejecting the poor, and therefore hypocritical and false to the core—progress does not march onward simply, smoothly, and directly, to 'greater and greater democracy', as the liberal professors and petty-bourgeois opportunists would have us believe." No—Lenin puts *his* reliance on progress marching toward Communism only "through the dictatorship of the proletariat". He says "it cannot do otherwise, for there is no one else and no other way to BREAK THE RESISTANCE OF THE CAPITALIST EXPLOITERS" (p. 73 of Ex. 20). This is the only logical consequence of Lenin's previously stated view of the capitalist state and of its "public force"—the armed apparatus of the state—as being the instruments through which the ruling capitalist exploiters apply violence, whenever really necessary, to keep the oppressed classes subjugated.

Lenin significantly reviews Engels' polemic against the Anarchists, in which Engels had defined a revolution as "an act in which one section of the population imposes its will on the other by means of rifles, bayonets, cannon, i. e. by highly authoritative means" and had asked whether the Paris Commune would have lasted a single day had it not relied upon "the authority of the armed people against the bourgeoisie" and whether we are "entitled to blame the Commune for not having made sufficient use of this authority?" (p. 53 of Ex. 20). Lenin here pointedly remarks that "in thus formulating the question, Engels takes the bull by the horns: ought not the Commune to have made MORE use of the REVOLUTIONARY power of the STATE, i.e., of the proletariat armed and organized as the ruling class?" Lenin says that here Engels made a concrete analysis as to what the proletariat should do in relation to the state, and how it should do it (p. 54 of Ex. 20). The postulation of the proletariat "armed and organized as the ruling class" necessarily presupposes the overcoming of the "public power" of the former ruling class (the bourgeoisie)—the armed forces and police of the bourgeois state—in establishing the rule of the proletariat.

Now, as previously emphasized, one of the primary objects, Lenin states, of the writing of this work was to resuscitate the real teachings of Marxism on the State, which, he asserts, had been forgotten or opportunistically

distorted. As aforementioned, the principal opportunist whom Lenin excoriates in this treatise is Karl Kautsky, the most outstanding leader of the Second International (and a German, not a Russian, Socialist leader, by the way). After expounding the true "revolutionary soul" of Marxism at length in "State and Revolution", Lenin closes with a chapter upon the vulgarization of Marxism by the Opportunists. He makes the general observation that it was "the *evasiveness* on the question of the relation of the proletarian revolution to the state, an evasiveness which was convenient for opportunism and nourished it" which resulted in the distortion and vulgarization of Marxism (p. 86 of Ex. 20). Lenin points out that Kautsky, in Kautsky's own attack upon the political opportunists, revealed Kautsky's own opportunist leanings "precisely on the question of the state" (p. 88 of Ex. 20). He significantly observes (p. 95 of Ex. 20):

> "Kautsky goes over from Marxism to the opportunists, because in his hands, this destruction of the state machinery, which is utterly inacceptable to the opportunists, completely disappears, and there remains for them a loophole in that they can interpret 'conquest' as the simple gaining of a majority."

He further states that Kautsky in his writings skips over the question of "revolution" and jumps to "opposition". Lenin points out (p. 96 of Ex. 20):

> "Opposition and general political struggle are beside the point; we are concerned with the REVOLUTION. And revolution consists in the proletariat's DESTROYING the 'administrative apparatus' and the WHOLE state machinery, and replacing it by a new one consisting of the armed workers. Kautsky reveals a 'superstitious reverence' for ministries; but why can they not be replaced, say, by commissions of specialists working under sovereign all-powerful Soviets of Workers' and Soldiers' Deputies?" (Inspector's Note: Capitals represent italics in the original.)

Then Lenin openly, beyond the shadow of a doubt, reveals his position on the crucial issue by branding as "nothing

but the most clear and vulgar opportunism: a repudiation of revolution in deeds while accepting it in words" the following passage from Kautsky's writings which Lenin quotes (p. 99 of Ex. 20):

> "The object of a general strike (Kautsky continues) can never be to destroy the state, but only to wring concessions from the government on some particular question, or to replace a hostile government with one willing to meet the proletariat half way . . . But never, under any conditions can it (a proletarian victory over a hostile government) lead to the DESTRUCTION of the state power; it can lead only to a certain SHIFTING . . . of forces WITHIN THE STATE power . . . The aim of our political struggle, then, remains as before, the conquest of state power by means of gaining a majority in parliament, and the conversion of parliament into the master of the government . . . ". (Inspector's Note: Capitals represent italics in the original.)

When Lenin damns "the conquest of state power by means of gaining a majority in parliament, and the conversion of parliament into the master of the government" as being rank political opportunism, as being traitorous to Socialism (p. 99 of Ex. 20), as being the obliteration of the revolutionary side of Marxism (p. 7 of Ex. 20), what possible inference can be drawn, other than that *Lenin preaches the conquest of state power by such force and violence as is necessary to accomplish the postulated objective of substituting proletarian Sovietism in the place of bourgeois parliamentarism?*

Philosophic analysis of "State and Revolution", as aforesaid, leads to but one conclusion—that this work of Lenin advocates the overthrow by force and violence of the Government of the United States, and all other bourgeois state governments. This considered conclusion, together with the establishment through the testimony of the witnesses that the pamphlet "State and Revolution" was circulated and distributed by the Communist Party of the U. S. A. during the period of respondent's membership, and with the ascertainment through the official declarations of that Party in evidence that such circulation and distribution was purposive, sustains the deportation charge

relating to the "distribution and circulation of written or printed matter" advocating the proscribed objective.

The second major writing of Lenin in evidence, "'Left Wing' Communism, An Infantile Disorder", likewise has been carefully examined. Study of it establishes that it contains doctrines bearing importantly upon the crucial issue in this case. Lenin states in it that "the object of this essay is . . ., namely, to study Russian experience in connection with certain topical questions of international Communist tactics" (p. 46 of Ex. 21). On its title page, the pamphlet sets forth that it is "a popular essay in Marxian strategy and tactics". (As already mentioned, the testimony of the witnesses has established the point beyond dispute that this treatise was circulated and distributed by the Communist Party of the U. S. A. during the period of respondent's membership.) At the very start of this writing, Lenin points out that "some of the fundamental features of our revolution have a significance which is not local, not peculiarly national, not Russian alone, but international. I speak here of international significance not in the broad sense of the term: not a few, but *all the fundamental and many of the secondary features of our revolution* are of international significance . . .". While Lenin then qualifies this assertion by stating that "it must be admitted that *some* of the fundamental features of our revolution do possess such a significance" and that "it would be a great mistake to exaggerate this truth and to apply it to more than a *few* of the fundamental features of our revolution", he concludes that "at the present moment of history the situation is precisely such that the Russian model reveals to ALL countries something, and *something very essential*, of their near and inevitable future". He then postulates that in the grasping by the advanced workers in *every* land of the lessons of the Russian example "lies the 'international significance' . . . of the Soviet power, as well as of the fundamentals of Bolshevik theory and tactics" (pp. 7 and 8 of Ex. 21). It is this "international significance" of the Leninist ideology that goes to the heart of the vital issue in this case. This world-wide impact is very evident in Lenin's and Stalin's theoretical explications.

It is noted that Lenin dedicated the writing in 1920 of this essay to Lloyd George, the British Prime Minister, as a token of Lenin's gratitude for a speech by Lloyd

George, which was "almost Marxist, and, in any case, exceedingly useful for Communists and Bolsheviks *throughout the world*" (p. 6 of Ex. 21). Study of the teachings contained in this work discloses that it deals with Communist tactics, i.e., the procedural steps leading up to the "seizure of power" in all bourgeois states and particularly with the error of "Left" Communists (i.e., Communist doctrinaires) in rigidly hewing to an uncompromising tactical line.

Philosophic analysis of its contents reveals that this treatise enlarges upon certain of the "Marxist-Leninist" concepts set forth in "State and Revolution". The doctrinal conformity of the two works is implicit in the following passage (p. 19 of Ex. 21):

> "If we now cast a general glance over a fully completed historical period, namely, from the Paris Commune to the first Socialist Soviet Republic, we shall find that the attitude of Marxism to anarchism in general assumes more definite and incontestable shape. In the final analysis, Marxism proved to be correct, and although the Anarchists rightly pointed to the opportunistic character of the views on the state that prevailed within the majority of the Socialist parties, it must be stated, firstly, that this opportunism was based upon the distortion, and even deliberate suppression of Marx's views on the state (in my book, THE STATE AND REVOLUTION, I called attention to the fact that for thirty-six years, from 1875 to 1911, Bebel kept secret a letter by Engels which very vividly, sharply, directly, and clearly exposed the opportunism of the stock Social-Democratic conceptions of the state); and secondly, that the rectification of these opportunist views, the recognition of the Soviet power and of its superiority over bourgeois parliamentary democracy, had all emerged most rapidly and broadly precisely from the most Marxian trends in the European and American Socialist parties." (Inspector's Note: Capitals represent italics in the original.)

"'Left Wing' Communism, An Infantile Disorder" is concerned essentially with tactical errors committed by "Communist" leftists in a number of bourgeois countries,

and endeavors to correct them by drawing lessons from the Russian experiences. The fact that it was written in 1920, over two years after the successful Bolshevik Revolution, and more than one year after establishment of the Third, Communist, International, is noteworthy. Lenin asserts in this treatise that "left wing" Communist mistakes can be observed in Germany, Great Britain, Italy, America and France—in America, in a certain section of the Industrial Workers of the World (p. 72 of Ex. 21). Certain references to the United States in this treatise are revelatory: the mention of the American Socialist Party in the passage quoted above; the reference to Gompers (the American Federation of Labor leader) in connection with the question of revolutionary work in reactionary trade unions (p. 38 of Ex. 21); the declaration that the American parliament has become an object of particular hatred to the advanced revolutionary members of the working class (p. 46 of Ex. 21); and the citation of the 1920 "Palmer raids" in the United States (p. 44 of Ex. 21). These references to the United States, plus Lenin's discourse upon the "international" significance of the essay, make it clear that the United States was within the purview of this writing.

In the section entitled "Some Conclusions", in which he sums up the lessons of the essay, Lenin observes with respect to the Russian bourgeois revolution of 1905 that under the influence of a number of entirely unique historical conditions, there occurred significant independent action of the proletariat: "A combination of the economic strike and the political strike, the transformation of the latter into armed insurrection, and the birth of a new form of mass struggle, and mass organization of the classes oppressed by capitalism, viz. the Soviets" (p. 71 of Ex. 21).

Lenin further points out with respect to the 1917 revolutions in Russia of February (the bourgeois revolution) and October (the Bolshevik revolution) that these revolutions "led to the all-around development of the Soviets on a national scale (Inspector's Note: historically this development occurred in the revolution of February 1917) and to their victory in the proletarian, Socialist Revolution" (Inspector's Note: historically, this development occurred in the revolution of October 1917). Lenin then asserts that in less than two years thereafter "there became revealed the international character of the Soviets, the spread of

this form of struggle and form of organization to the world working class movement, and *the historical mission of the Soviets* as the grave digger, heir, and successor of bourgeois parliamentarism, and of bourgeois democracy in general" (p. 71 of Ex. 21). Lenin thus draws the important conclusion that the proletarian type of political assemblage—the Soviets—is to be the historical successor of bourgeois parliamentarism.

Earlier in the treatise, in reviewing the history of Bolshevism, Lenin puts the significant historical facts of the rise of the Soviets this way (p. 12 of Ex. 21):

> "The years of revolution (1905-07): All classes come out into the open. All views on programme and tactics tested by the action of the masses. There is a strike movement unprecedented anywhere in the world for its extent and acuteness. *The economic strike grows into a political strike, and the latter into insurrection.* The relations between the proletariat, as the leader, and the vacillating, unstable peasantry, as the led, are tested in practice. *The Soviet form of organization is born in the spontaneous development of the struggle.*" (Inspector's Note: Italics supplied.)

The historical lesson here is plain: the Soviets arose as a political organization during the course of proletarian struggle involving strikes for economic objectives, which developed into a strike having political objectives, which in turn developed into an armed uprising of the masses led by the proletariat against the political authorities.

Lenin, in discussing the actions of the Bolshevik Party in relation to the 1905-07 events in Russia, points out that when in August 1905 the Czar convoked an advisory "Parliament" (the Duma), the Bolsheviks adopted the tactic, which Lenin states was correct under the circumstances—the tactic of boycotting (refusing to participate in) this reactionary "Parliament". Lenin significantly observes in this connection (p. 20 of Ex. 21):

> "At that time the boycott proved correct, not because non-participation in reactionary parliaments is correct in general, but because we correctly estimated the objective situation that was leading to the rapid transformation of the mass strikes into a politi-

cal strike, then into a revolutionary strike, and then into insurrection."

Lenin thereupon teaches the following lesson in relation to the use of this tactic (p. 20 of Ex. 21):

> "The Bolshevik boycott of 'parliament' in 1905 enriched the revolutionary proletariat with *extremely valuable political experience* and showed that when combining *legal and illegal, parliamentary and non-parliamentary forms of struggle*, it is sometimes useful, and even essential, to be able to reject parliamentary forms. But it is a very great mistake to apply this experience blindly, imitatively and uncritically to OTHER conditions and to OTHER circumstances. The boycott of the 'Duma' by the Bolsheviks in 1906 was a mistake, although small and easily remediable. The boycott of the Duma in 1907, 1908, and subsequent years was a serious mistake and one difficult to remedy, because, on the one hand, *a very rapid rise of the revolutionary tide and its transformation into an insurrection could not be expected*, and, on the other hand, the whole historical situation of the renovated bourgeois monarchy called for *the combining of legal and illegal work*. Now, looking back on this historical period, which is now quite closed and the connection of which with the subsequent periods has become fully manifest, it becomes very clear that the Bolsheviks COULD NOT HAVE preserved (let alone strengthened, developed, and reinforced) the sound core of the revolutionary party of the proletariat in 1908-14 had they not fought for *the viewpoint that it is* OBLIGATORY *to combine legal and illegal forms of struggle, that it is* OBLIGATORY *to participate even in the most reactionary parliament* and in a number of other institutions that were restricted by reactionary laws (benefit societies, etc.)." (Inspector's Note: Italics supplied; capitals represent italics in the original.)

The important tactical lesson to be observed in this passage is that when the objective situation involves a very rapid rise of the revolutionary tide and its transforma-

tion into an insurrection may be expected, then it is a correct Communist tactic to concentrate on *illegal* work (transformation of mass strikes into a political strike, then into a revolutionary strike, and then into insurrection) and perhaps not to take part in legal action (participation in the bourgeois parliament);—but when the objective situation does not appear to be ripe for intensification of the illegal work, then the Communist Party *must* combine both legal (participation in Parliament) and illegal (developing strike movements in a political direction) forms of the struggle. (In this connection, the passage in "State and Revolution" in which Lenin cites Kautsky's dissertation upon a general strike wringing concessions from the government, should be recalled.)

With this principle understood, the following statement of Lenin upon the "art of politics" becomes intelligible (p. 35 of Ex. 21):

> "The art of politics (and the Communist's correct understanding of his tasks) lies in correctly gauging the conditions and the moment when the vanguard of the proletariat (Inspector's Note: it is to be noted that the Communist Party is this vanguard) can successfully seize power, when it is able, during and after the seizure of power, to obtain adequate support from adequately broad strata of the working class and of the non-proletarian toiling masses, and when it is able thereafter to maintain, consolidate, and extend its rule by educating, training and attracting ever broader masses of the toilers."

In other words, the Communists must correctly gauge when the objective conditions are politically ripe for the Communist Party's successful seizure of power—which is the moment when it is able to obtain enough support from the masses to take power, and maintain it for the proletarian class.

Accordingly Lenin teaches, a ruthless struggle must be waged to drive the reactionary labor leaders out of the trade unions in all the industrially advanced countries, because "it is impossible to capture political power (and the attempt to capture it should not be made) until this struggle has reached a CERTAIN stage. This 'certain stage' WILL BE DIFFERENT in different countries and in different

circumstances; it can be correctly gauged only by thoughtful, experienced, and well-informed political leaders of the proletariat in each separate country" (p. 36 of Ex. 21). Now this declaration of the necessity for driving the reactionary trade union leaders out of the trade unions before an attempt should be made by the Communists to seize power is comprehensible only when it is borne in mind that the Communist road to political power lies in the transformation of economic strikes into a general political strike, which in turn is to be developed into a revolutionary strike leading to an insurrection and the seizure of power by the Communists. The need to root the reactionary leaders out of the trade unions, therefore, is manifest, because these reactionary labor leaders would head the opposition to any effort to transform economic strikes into political strikes.

It is noted that Lenin here points out that the fact that the Bolsheviks picked the proper time in 1917 to capture political power is demonstrated by the elections to the Russian (bourgeois) Constituent Assembly in November 1917, a few days after the proletarian revolution of October 25, 1917, in which the Bolsheviks obtained the preponderant vote (p. 36 of Ex. 21). The citation of this fact by Lenin is open to a possible interpretation of the aforementioned "certain stage" when the Communists are to seize power as being that moment when the Communists can obtain a voting majority in the "parliament". On the other hand, the very fact that the moment when power was seized occurred *before* the date of elections to the Russian "parliament" would indicate that "seizure of power" DOES NOT MEAN attainment of a parliamentary majority. This latter view is borne out by Lenin's subsequent comments upon the "Left" Communist errors in relation to "parliamentarism" (particularly p. 43 of Ex. 21, which is referred to later). In this connection, it must be recalled that in "State and Revolution" Lenin termed the parliamentary system in the bourgeois democratic state as "the venal and rotten parliamentarism of bourgeois society", and declared that the oppressed classes could not effectuate their will through bourgeois parliaments since the essence of bourgeois parliamentarism is the deciding by the masses once every few years which members of the ruling bourgeois class are to repress and oppress them through the parliament.

Opinion of Presiding Inspector, Gilbert Zimmerman on the Reopened Hearing

Now in "'Left Wing' Communism, An Infantile Disorder" Lenin takes to task impetuous "left" Communists for rejecting on principle, all participation in bourgeois parliaments. He first quotes the German "Left" Communists, who had declared against participation in Parliament on the ground that parliamentary forms of the struggle "had become historically and politically obsolete" (pp. 39 and 40 of Ex. 21). (This declaration of the "Left" Communists is understandable, in view of the above-mentioned "Leninist" attitude towards Parliamentarism.)

Lenin points out that Parliamentarism has become "historically obsolete", but only from the standpoint of world history (according to the Communist ideology), in that "the EPOCH of bourgeois parliamentarism has come to an end and the EPOCH of the proletarian dictatorship has BEGUN" (p. 40 of Ex. 21). What this means is simply that it is the "Marxist-Leninist" view that the fall of bourgeois dominance and the rise of proletarian supremacy are historically inevitable, and the establishment in Russia of the Soviet form of the Dictatorship of the Proletariat has ushered in the historical period during which proletarian dictatorships are to supplant bourgeois "Parliaments". This phrase then is merely expressive of the fundamental "Marxist-Leninist" concept.

But Lenin asserts, it is an error on the part of the German "Left" Communists to reject parliamentary forms of the struggle (tactics) leading towards the Communist objective, dictatorship of the proletariat, which is to wither away to Communism, as being *"political obsolete."* He points out that when "'millions' and 'legions' of PROLETARIANS are not only still in favor of parliamentarism in general but are downright 'counter-revolutionary'", then "clearly, parliamentarism in Germany is NOT YET politically obsolete" (p. 41 of Ex. 21). Thereupon Lenin makes this trenchant observation (pp. 41 and 42 of Ex. 21):

> "Clearly, the 'Lefts' of Germany have mistaken THEIR DESIRE, their ideological-political attitude, for actual fact. . . . *Parliamentarism, of course is 'politically obsolete'* for the Communists in Germany; *but—and this is the whole point*—we must not regard *what is obsolete* FOR US as being obsolete FOR THE MASSES. Here again we find that the 'Lefts' do not know how to reason, do not know how to conduct themselves as the party of the

CLASS, as the party of the MASSES. You must not sink to the level of the masses, to the level of the backward strata of the class. That is incontestable. You must tell them the bitter truth. *You must call their bourgeois-democratic and parliamentary prejudices—prejudices.* But at the same time you must SOBERLY observe the ACTUAL state of class consciousness and preparedness of the *whole class* (*not only of its Communist vanguard*), *of all the toiling MASSES* (not only of its advanced elements).

"Even if not 'millions' and 'legions' but only a fairly large MINORITY of industrial workers follow the Catholic priests—and rural workers, the landlords and kulaks (Grossbauern****)-it UNDOUBTEDLY follows that parliamentarism is NOT YET politically obsolete, *that participation in parliamentary elections and in the struggle on the platform of parliament is* OBLIGATORY for the party of the revolutionary proletariat PRECISELY *for the purpose of educating the backward strata of* ITS OWN CLASS, *precisely for the purpose of awakening and enlightening the undeveloped, downtrodden, ignorant peasant*[4] MASSES. *As long as you are unable to disperse the bourgeois parliament and every other type of reactionary institution, you* MUST *work inside them,* PRECISELY *because there you will still find workers* who are stupefied by the priests and by dreariness of rural life; otherwise you risk becoming mere babblers." (Inspector's Note: Italics supplied; capitals represent italics in the original.)

In this passage, Lenin teaches a tactical lesson of the first magnitude. He explains to the "Left" Communists why they must participate in bourgeois parliaments, even though to the Communists, parliamentarism is already "politically obsolete". He clearly points out *the purpose* of Communist participation in Parliaments is to educate the backward section of the proletariat and enlighten the

4. It may be observed that here Lenin gives the German equivalent "Grosshauren" for the Russian appellative "Kulak" (petty-bourgeois individuals). In like manner references to the "peasants" as a group in Society must be understood, when translated into American terms, as the rural landless worker and tenant-farmer groups in American life.

downtrodden masses. It must be carefully noted hat this is the whole purpose of Communist participation in Parliaments here stated by Lenin. He does not say a word about the Communists obtaining a parliamentary majority. Having already postulated that all that the proletariat and the masses can get under the parliamentary system is the opportunity every few years of deciding which representatives of the bourgeoisie are to oppress them during the ensuing years, and that Parliamentarism is already "politically obsolete" for the Communists, Lenin would be inconsistent with himself if he preached attainment of political power through parliament.

Lenin pointedly declares in relation to this question of "Parliamentarism" that the correct tactical conclusion to be drawn for *international* application from the Bolshevik participation in the Russian bourgeois parliament, the Constituent Assembly, in September-November 1917 is that the proper moment for revolutionary action is the stage when "*the broad mass of the toilers are* PREPARED (*ideologically, politically, and practically*) *to accept the Soviet system and to disperse the bourgeois-democratic parliament* (OR TO ALLOW IT TO BE DISPERSED) (p. 43 of Ex. 21). He further asserts that it is essentially irrelevant to the gauging of the proper moment for revolutionary action whether bourgeois parliaments have existed for a long (as in most West-European countries and in the United States) or a short time (as in Russia). He states that the important factor in Russia was "that owing to a number of special conditions the urban working class and the *soldiers* and peasants of Russia were in September-November 1917 exceptionally well prepared for the acceptance of the Soviet system and *for the dispersal of the most democratic of bourgeois parliaments*" (p. 43 of Ex. 21). The lesson for successful international proletarian tactical application that Lenin points out here is that the proper time for Communist action is that moment when the masses (including the proletariat, *the armed forces*, and the poorer farming class) are ideologically and practically ready to permit the bourgeois parliament to be dispersed—to be forced to close—to be replaced by Soviets. It is parenthetically noted here that Lenin is quoted by Stalin in "Problems of Leninism", which will be later reviewed, to the effect that what the Bolsheviks did in October 1917 was "by a few decrees transform the Soviet power from the embryonic condition in

which it existed during the first months of the revolution, into a form legally recognized and confirmed in the Russian state—the Russian Soviet republic . . .'' (p. 18 of Ex. 23). Obviously the "few decrees" to which Lenin has reference were not those of the Constituent Assembly, for that legislative body was at the time in the hands of the Social Revolutionaries, et al.

Lenin himself states this is the conclusion to be drawn (p. 43 of Ex. 21):

> "The conclusion which follows from this is absolutely incontrovertible: it has been proved that participation in a bourgeois-democratic parliament even a few weeks before the victory of a Soviet republic, and even AFTER such a victory not only does not harm the revolutionary proletariat, *but actually helps it to* PROVE *to the backward masses why such parliaments deserve to be dispersed; it* HELPS *their successful dispersal, and* HELPS bourgeois parliamentarism to become 'politically obsolete.'" (Inspector's Note: Italics supplied; capitals represent italics in the original.)

(Naturally, if a decree of a Communist dominated revolutionary Soviet assemblage formally ordered the division of large estates among the mass of the farmers, and if such an assemblage vested ownership of industrial capital assets (Instruments of production) in the mass of the people through a formal decree expropriating such bourgeois property, the masses thereby benefited would tend to acquiesce in such action. Further, if these masses had been ideologically weaned from attachment to the bourgeois parliamentary institutions, whose bourgeois laws and bourgeois moral standards would be violated by such invasion of private property, and particularly if they were convinced that the dispersed Parliament was hostile to their "legitimate" interests, they would support the Soviets.)

This is why Lenin says that to fail to follow this tactic right up to, and after, the revolutionary moment is "to commit the gravest blunder and actually to retreat from real internationalism" (p. 43 of Ex. 21).

Lenin thereupon elucidates an error committed by the "Left" Communists of Holland in issuing a Thesis setting forth (p. 43 of Ex. 21):

> "When the capitalist system of production has broken down and society is in a state of revolution, parliamentary activity gradually loses its significance compared with the action of the masses themselves. When, under these conditions, parliament becomes a centre and an organ of counter-revolution, while on the other hand the working c[illegible] is creating the instruments of its power in the form of Soviets, it may even become necessary to abstain from all participation in parliamentary activity."

Now, is exposing the error in this aforecited Thesis, (he, himself, quotes the Thesis) Lenin reveals that his use of the phrase "illegal form of struggle" comprehends political strike action. Lenin sets forth in relation to this Thesis (p. 44 of Ex. 21):

> "The first sentence is obviously wrong, *since the action of the masses—a big strike, for instance—is more important than parliamentary activity at* ALL *times, and not only during a revolution or in a revolutionary situation.* This obviously untenable and historically and politically incorrect argument only very clearly shows that the authors (Inspector's Note: of the Thesis) absolutely ignore both the general European experience (the French experience before the Revolution of 1848, and 1870; the German experience of 1878 to 1890, etc.) and the Russian experience (see above) (Inspector's Note: i.e., in the essay) as to *the importance of* COMBINING *the legal struggle with an illegal struggle.* This question is of importance in general, and it is of immense importance in particular because in ALL *civilized and advanced countries* the time is rapidly approaching when such a combination will become—and in part has already become—more and more obligatory for the party of the revolutionary proletariat owing to the fact that civil war between the proletariat and the bourgeoisie is maturing and approaching, owing to the fierce persecution of the Communists by republican governments and bourgeois governments gen-

> erally, which are prepared to resort to any violation of legality (how much is the American example[5] alone worth), etc. The Dutch, and the "Lefts" in general, have utterly failed to understand this very important question."

The second error that Lenin assigns to this Thesis serves to emphasize the tactical lesson he draws with respect to the necessity for Communist participation in bourgeois parliaments in unconventional manner. He points out that the second sentence of the Thesis (which postulates that when Parliament becomes an organ of counter-revolution during a revolutionary period, it may be necessary for the Communist to boycott it) is amazingly illogical. Lenin asserts in this connection (pp. 44 and 45 of Ex. 21):

> "If parliament becomes an organ and a 'centre' (in reality it never has been and never can be a 'centre', but that by the way) of counter-revolution, while the workers are *creating the instruments of their power* in the form of *Soviets*, it logically follows *that the workers must prepare—ideologically, politically, and technically—for the struggle of the Soviets against Parliament, for the dispersal of parliament by the Soviets.* But it does not follow that this dispersal is hindered, or is not facilitated by the *presence of a Soviet opposition* WITHIN *the counter-revolutoinary parliament.* . . . . We know perfectly well that we were not hindered but assisted in dispersing the Constituent Assembly on January 5, 1918, by the fact that within the counter-revolutionary Constituent Assembly which was about to be dispersed there was a consistent Bolshevik, as well as an inconsistent, Left Socialist-Revolutionary, Soviet opposition. The authors of these theses have become utterly confused and have forgotten the experience of many, if not all, revolutions, *which shows how particularly useful during a revolution is the*

5. The editor of the pamphlet in a footnote indicates that this refers to the 1920 raids upon Communist organizations under the direction of Attorney General Palmer.

combination of mass action outside the reactionary parliament with an opposition sympathetic to (or, better still, directly supporting) the revolution inside this parliament." (Inspector's Note: Italics supplied; capitals represent italics in the original.)

The foregoing passage plainly shows Lenin's teaching as to the further purpose of Communist participation in bourgeois parliaments besides propaganda and agitation. The Communist faction in Parliament is to oppose any counter-revolutionary action of Parliament at the time of the crisis, and perhaps with the cooperation of other disaffected groups in Parliament, to obstruct any parliamentary action being taken in relation to the revolutionary situation. This passage also confirms the observation that Lenin teaches that the revolutionary assemblage of the masses—the Soviets—is to supplant the bourgeois parliament, not by a transformation of the bourgeois parliament by action at the polls whereby the proletarian class obtains a majority of the seats in the bourgeois parliament, but by the Soviets coming into being as an assemblage of the masses during a period of revolutionary strikes, and by its decreeing the dispersal of the bourgeois parliament. Such is the tactical lesson Lenin teaches here in "'Left Wing' Communism, An Infantile Disorder".

Lenin lays down this axiom: "* * * without a revolutionary mood among the masses, and without conditions favoring the growth of this mood, revolutionary tactics would never be converted into action; but we in Russia have been convinced by long, painful, and bloody experience of the truth that revolutionary tactics cannot be built upon revolutionary moods alone. Tactics must be based on a sober and strictly objective estimation of ALL the class forces in a given state (and in neighboring states,[6] and in all states the world over) as well as the experience of revolutionary movements" (p. 46 of Ex. 21). It is clear

6. This axiom is most applicable to the present day instance of Czechoslovakia, wherein as the witness, Schneiderman pointed out, the Communists have come into power without direct resort to force (R. 306, 352 and 353). What effect on that situation was the potential force wielded by the neighboring class state, the U.S.S.R.?

then that Lenin teaches that the correct time for initiation of revolutionary tactical action is that moment when a sober and strictly objective survey of the concrete situation by the Communist leadership indicates that the masses in the State are ideologically, politically and practically ready to countenance revolutionary action; when the Communists and their active adherents are a strong enough force to overcome, or at least match the opposing bourgeois forces in the State; when the class forces in other states are at least in neutral balance, or better still, at the particular time, so divided or involved themselves as to enhance the chance of success of the proletarian revolutionary action. As already discussed, this revolutionary action involves turning economic strikes into a political strike which in turn is to be converted into an insurrection. At the same time, the revolutionary mass assemblages—the Soviets, (or another form of the Dictatorship of the Proletariat) are to be formed. This is Lenin's tactical plan of action in this treatise for the attainment of political power by the proletariat led by its vanguard, the Communist Party—in *any* bourgeois country.

Lenin then gives an illuminating dissertation upon the tactical maneuver of political compromises at the point where he elucidates the Communist "Left" error of advancing a slogan of "no compromises". He carefully distinguishes between compromises which serve to advance the Communists towards their objective, and compromises which do not. He characterizes the latter as opportunistic. Lenin points out that the "Left" Communists who denounce all political compromises with other parties should condemn the Russian Bolsheviks—for "the whole history of Bolshevism, both before and after the October Revolution, is FULL of instances of maneuvering, temporizing and compromising with other parties, bourgeois parties included!" (p. 52 of Ex. 21).

In this connection, Lenin postulates another great tactical axiom (p. 52 of Ex. 21):

> "To carry on a war for the overthrow of the international bourgeoisie, a war which is a hundred times more difficult, prolonged, and complicated than the most stubborn of ordinary wars between states,

and to refuse beforehand to manoeuvre, to utilize the conflict of interests (even though temporary) among one's enemies, to refuse to temporize and compromise with possible (even though transitory, unstable, vacillating and conditional) allies—is not this ridiculous in the extreme?"

He underlines this conception of the proletarian struggle as being a difficult *international* war waged against an *international* bourgeoisie, which requires the utmost flexibility in *tactics* in the next succeeding paragraph (pp. 52 and 53 of Ex. 21):

"After the first Socialist revolution of the proletariat, after the overthrow of the bourgeoisie in one country, the proletariat of that country FOR A LONG TIME remain WEAKER than the bourgeoisie,[7] simply because of the latter's extensive international connections, and also because of the spontaneous and continuous restoration and regeneration of capitalism and the bourgeoisie by the small commodity-producers of the country which has overthrown the bourgeoisie. The more powerful enemy can be conquered only by exerting the utmost effort and by NECESSARILY, thoroughly, carefully, attentively and skilfully taking advantage of every, even the smallest, 'rift' among the enemies, of every antagonism of interest among the bourgeoisie of the various countries and among the various groups as types of bourgeoisie within the various countries, by taking advantage of every, even the smallest, opportunity of gaining a mass ally, even though this ally be temporary, vacillating, unstable, unreliable, and conditional.[8] Those who do not understand this do not understand even a particle of MARXISM, or of scientific, modern socialism IN GENERAL. Those who have not proved

7. The witness Schneiderman, claimed that Lenin had never stated anything to this effect (R. 550).

8. This precept provides a guide for understanding the Communist reasoning behind the 1939 Nazi Germany-Communist U.S.S.R. pact.

by DEEDS over a fairly considerable period of time, and in fairly varied political situations, their ability to *apply this truth in practice* have not yet learned to assist the revolutionary class in its struggle for the emancipation of toiling humanity from the exploiter. And this applies equally to the period before and to the period after the conquest of political power by the proletariat." (Inspector's Note: Italics supplied; capitals represent italics in the original.)

The foregoing passage is followed immediately by this sentence: "Our theory is not a dogma but a GUIDE TO ACTION, said Marx and Engels, and the great mistake, the great crime such 'patented' Marxists as Karl Kautsky, Otto Bauer, etc., commit is that they have not understood this, have not been able to apply it at the most important moments of the proletarian revolution" (p. 53 of Ex. 21). Considered out of its context, the phrase "Our theory is not a dogma but a guide to action" might be construed to apply to all of the "Marxist-Leninist" ideology. But within its context, it is clear that this phrase refers only to the *tactical* precepts with which Lenin deals in this work. By the phrase Lenin means that the tactical principles are not inflexible dogma, but instead lay down a very flexible guide to tactical action—*leading, however, to the fixed strategic objective*: verthrow of the bourgeoisie along with its bourgeois government and establishment of the Dictatorship of the Proletariat, which is to wither away to a classless communal society.

Lenin makes this clear in his conclusions at the close of the essay, and also in the following passage which appears in the section devoted to Lenin's discourse upon "Left" Communism in Great Britain. The paragraph quoted below follows Lenin's citation of a letter written by a young British Communist scorning giving any support to parliamentarism (p. 62 of Ex. 21):

> "The writer of the letter fully understands *that only workers' Soviets, and not parliament, can be the instrument whereby the aims of the proletariat*

will be achieved. And, of course, those who have failed to understand this up to now are hopeless reactionaries, even if they are most highly educated people, most experienced politicians, most sincere Socialists, most erudite Marxists, and most honest citizens and fathers of families. But the writer of the letter does not ask, and it does not even occur to him to ask whether it is possible to bring about the victory of the Soviets over parliament without getting 'pro-Soviet' politicians INTO parliament, *without disrupting parliamentarism from* WITHIN, *without working within parliament for the success of the Soviets in their forthcoming task of dispersing parliament.* And yet the writer of the letter expresses the absolutely correct idea that the Communist Party in Great Britain must act on SCIENTIFIC *principles.* Science demands, first, that the experience of other countries should be taken into account, especially if these other, also capitalist, countries are undergoing, or have recently undergone a very similar experience; secondly, *it demands that account should be taken of* ALL *the forces, groups, parties, classes, and masses operating in the given country, and that policy should not be determined by mere desires and views, and by degree of class consciousness and readiness for battle of only one group or party.*" (Inspector's Note: Italics supplied; capitals represent italics in the original.)

Two of Lenin's teachings in "'Left Wing' Communism, An Infantile Disorder" are manifest from this passage: First, participation in bourgeois parliaments is obligatory for the Communists to the end that parliamentarism may be disrupted from within while the struggle for Soviets is to lead to the dispersal of parliament; second, Communist tactics *must take account of hard-won Communist experience in other countries* and of the alignment of all the forces operating in the country. Yet withal, Lenin postulates that all tactics (based on the scientific "Marxist-Leninist" principles) are based on the proposition that

workers' Soviets, not Parliament, are to be the instrument whereby the Communist objective is to be achieved.

Returning to Lenin's discourse on "compromises", it is noted that he there sets forth that the proletariat is surrounded by various types of capitalist and transitional groups which are affected and divided by many influences. These factors make it necessary, Lenin points out (pp. 56 and 57 of Ex. 21):

> "* * * absolutely necessary, for the vanguard of the proletariat, its class conscious section, the Communist Party, to resort to manoeuvres, arrangements, and compromises with the various groups of proletarians, with the various parties of the workers and small proprietors. The whole point lies in KNOWING HOW to apply these tactics in such a way as to RAISE, and not lower, the GENERAL level of proletarian class consciousness, revolutionary spirit, and ability to fight and conquer * * * The petty-bourgeois democrats * * * inevitably vacillate between the bourgeoisie and the proletariat, between bourgeois democracy and the Soviet system, between reformism and revolutionariness, between love for the workers and fear of the proletarian dictatorship, etc. The proper tactics for the Communists to adopt is to UTILIZE these vacillations and not to ignore them; and utilizing them calls for concessions to those elements which are turning towards the proletariat, whenever and to the extent that they turn towards the proletariat, in addition to demanding a fight against those who turn towards the bourgeoisie * * * This is a long process, and the hasty 'decision'—'No compromise, no manoeuvres!'—can only hinder the work of strengthening the influence of the revolutionary proletariat and enlargening its forces."

The import of this passage is plain: any *tactical* maneuver or compromise is justified, so long as it raises the proletarian class consciousness, revolutionary spirit and ability to fight and win the struggle, and every tactical

advantage must be taken by compromise of splits and vacillation among other groups to strengthen the proletarian ranks.

With respect to tactical action in the struggle against the bourgeoisie, Lenin significantly points out that it is necessary to avoid direct conflict when the proletariat is the weaker adversary.[9] He teaches (p. 59 of Ex. 21):

> "To tie one's hands beforehand, openly to tell the enemy, who is at present better armed than we are, whether we shall fight him, and when, is stupidity and not revolutionariness. To accept battle at a time when it is obviously advantageous to the enemy and not to us is a crime; and absolutely worthless are those political leaders of the revolutionary class who are unable 'to tack, manoeuvre and compromise' in order to avoid an obviously disadvantageous battle."

What Lenin teaches here is that *until* the proletariat is strong enough, or *until* the objective situation is such as to allow a good possibility for successful proletarian action, the proletariat is to avoid having to engage in any class battle under disadvantageous circumstances even if it must resort to any tactical maneuver, compromise, or change. Here again, it must be observed that this principle is applicable only to *tactics* and not to *strategical objectives.*

There is one further great tactical lesson that Lenin teaches the Communists the world over in this treatise. He begins by pointing out in relation to Great Britain, that it is advantageous to the British Communists to have a non-Communist Labor Party elected to office inasmuch as "revolution is impossible without a change in the views of the majority of the working class, and this change is brought about by the political experience of the masses,

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9. This is a necessary corollary of Lenin's teaching to take decisive revolutionary action only when the "certain stage" has been reached. It also would seem to explain the absence of overt action in the United States to date, since the conditions stated by Lenin as necessary have not yet matured here.

and never by propaganda alone''. Accordingly, when this non-Communist Labour Party comes into Government office, the majority of the workers ''will very soon become disappointed in their leaders and will begin to support Communism (*or at all events will adopt an attitude of neutrality, and for the most part of benevolent neutrality,* toward the Communists)'' (p. 66 of Ex. 21). In connection with this reference to the support or neutrality of the majority of the workers towards the Communists, it is apropos to recall Lenin's earlier stated maxim: the proper time for revolutionary mass action is that moment when the broad mass of the toilers are ideologically, politically, and practically, prepared to accept the Soviet system and the dispersal of the bourgeois-democratic parliament.

Lenin then formulates his basic precept for successful revolution (p. 66 of Ex. 21):

> ''The fundamental law of revolution, which has been confirmed by all revolutions, and particularly by all three Russian revolutions in the twentieth century, is as follows: it is not enough for revolution that the exploited and oppressed masses should understand the impossibility of living in the old way and demand changes; what is required for revolution is that the exploiters should not be able to live and rule in the old way. Only when the 'LOWER CLASSES' DO NOT WANT the old way and when the 'upper classes' CANNOT CARRY ON IN THE OLD WAY can revolution win. This truth may be expressed in other words: revolution is impossible without a nationwide crisis (affecting both the exploited and the exploiters). It follows that revolution requires, firstly, that a majority of the workers (*or at least a majority of the class-conscious, thinking, and politically active workers) should fully understand that revolution is necessary and be ready to sacrifice their lives for it;* secondly, that the ruling class should be passing through a governmental crisis which would draw even the most backward masses into politics (a symptom of every real revolution is a rapid tenfold and even hundredfold

> increase in the number of representatives of the toiling and oppressed masses—who have hitherto been apathetic—capable of waging the political struggle), *weaken the government and make it possible for the revolutionaries to overthrow it rapidly.*" (Inspector's Note: Italics supplied; capitals represent italics in the original.)

What kind of revolution is Lenin discussing in the foregoing passage? What kind of revolution calls for resolute men to sacrifice their lives for it? What kind of revolution waits upon a profound governmental crisis which weakens the government to the point that a revolution can successfully overthrow it? There can be only one answer. There are no two tenable inferences here. This passage speaks of forceful overthrow of a government in a crisis. It is indeed significant that Lenin formulates this "law" as the only basis for a successful revolution. In the opinion of the Presiding Inspector this passage constitutes incontrovertible evidence that in the use of the term "revolution" Lenin refers in this work to an insurrection in the process of which the dominance of the bourgeoisie and the governmental machinery of the bourgeois state are to be overthrown.

That Lenin in this treatise does not for one moment preach any deviation from the strategic objective of overthrow of bourgeois supremacy and establishment of the dictatorship of the proletariat, but teaches only the necessity for the utmost flexibility in *tactics* to achieve this strategic objective is very evident from his conclusions. Immediately before entering upon them, Lenin deals with the problem of the British Communists of whether or not to affiliate with the British Labour Party. Lenin here declares that (pp. 70 and 71 of Ex. 21):

> "* * * it is beyond doubt that in this question too, as always, *the task is to learn to apply the general and basic principles* of Communism to the PECULIAR relations between classes and parties, to the PECULIAR FEATURES of the objective develop-

ment *towards Communism* which are characteristic of each country and which must be studied, discovered, divined.

"But this must be discussed not in connection with British Communism alone, but in connection with the general conclusions concerning the development of Communism *in all capitalist countries.* We shall now proceed to deal with this theme." (Inspector's Note: Italics supplied; capitals represent italics in the original.)

The significance of this passage leading up to the conclusions in "'Left Wing' Communism, An Infantile Disorder" lies in Lenin's emphasizing that the tactical task of the Communists is to learn to apply the *general and basic principles of Communism* to the peculiar circumstances of each country, and that his conclusions relate to the development of Communism in *all capitalistic countries.*

Now, in setting forth his conclusions, Lenin begins with some observations on the Russian Revolution (which have been quoted in part at the beginning of this Opinion's discussion of the essay under consideration. As already discussed, he observes in relation to the 1905 revolution in Russia that in all great revolutions there has been a spasmodic growth of the independent activity of the oppressed masses at the time of the revolution, and that the pattern of the 1905 revolution involved "a combination of the economic strike and the political strike, the transformation of the latter into armed insurrection, and the birth of a new form of mass struggle and mass organization of the classes oppressed by capitalism, viz., the Soviets" (p. 71 of Ex. 21). Lenin then observes that the 1917 revolutions in Russia "led to the all-around development of the Soviets on a national scale, and to their victory in the proletarian, Socialist revolution. And in less than two years there became revealed the international character of the Soviets, the spread of this form of struggle and form of organization to the world working class movement, and the historical mission of the Soviets as the grave-digger,

heir and successor of bourgeois parliamentarism, and of bourgeois democracy in general" (p. 71 of Ex. 21). The importance of these conclusions of Lenin on the lessons of the Russian revolutions is enhanced by his aforementioned introductory statement that his conclusions deal with "the development of Communism in *all* capitalist countries". Thus, essentially, Lenin's conclusion in relation to the Russian revolutions is that the Soviets, as a form of mass struggle and mass organization of the classes oppressed by capitalism have an international significance—a historical mission to be the grave digger and successor to *bourgeois parliamentarism* and of *bourgeois democracy* in *all* capitalist countries having that form of bourgeois government.

Lenin next concludes that (pp. 71 and 72 of Ex. 21):

> "* * * the history of the working class movement now shows that in all countries it is about to experience (and has already begun to experience) a struggle between Communism which is growing, gaining strength and marching towards victory, and first and foremost, its OWN (in each country) 'Menshevism', i.e., *opportunism and social chauvinism,* and secondly—as a sort of supplement—'Left Wing' Communism. The former struggle has developed in all countries, apparently without a single exception, as a struggle between the Second International (already virtually dead) and the Third International. The latter struggle can be observed in Germany, Great Britain, Italy, America (at least a certain SECTION of the Industrial Workers of the World and the anarcho-syndicalist trends defend the errors of 'Left Wing' Communism, while, side by side, *we have an almost universal, almost unanimous acceptance of the Soviet system*) and France (the attitude of a section of the former syndicalists toward political parties and parliamentarism, *again side by side with the acceptance of the Soviet* system); in other words, *the struggle is undoubtedly being waged not only on a national but even on a world-wide scale.*" (Inspector's Note: Italics supplied; capitals represent italics in the original.)

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This general conclusion of Lenin has a threefold significance: First, Lenin considers the opportunism and social-chauvinism of the Second International to be the antipode of the principles upon which the Third International was based, and he contrasts the "Socialists" in all countries with the "Communists". It must be reflected that in aspersing the opportunism of the Second International, he is decrying the taking advantage of immediate political gains without due regard for the ultimate end of establishment of a communal society, and in discrediting its social-chauvinism, he is denouncing the socialists' patriotic adherence, each to "his own" country. From this contrast, it is apparent that Lenin views the Communists as standing, in relation to the foregoing principles, for doctrines directly opposite to those advocated by the Socialists.

Second: Lenin postulates that the errors of "Left-Wing" Communism, essentially based upon inflexible adherence to set tactics, were observable in all countries, including the United States.

Third: Lenin declares that despite the errors of the "Left Wing" Communists, there is an almost universal, almost unanimous, acceptance by the Communists—including those in the United States—of the Soviet system as the strategic objective in the struggle toward a classless communal society. Clear it is, then, that the teaching of "'Left Wing' Communism, An Infantile Disorder" is not that any of the Communist Parties should deviate from struggling for the establishment of a Soviet system because of the peculiar circumstances of the particular country (nowhere in the work does Lenin even suggest the possibility that a Soviet system can be attained through conversion of bourgeois parliaments into proletarian assemblies by means of an electoral majority), but that in seeking to advance towards organization of the mass struggle into the Soviet form, all possible tactical advantage must be taken by each Communist Party, through all acceptable maneuvers and compromises, of the peculiar relations between other parties in the particular country and the peculiar situations arising in that country.

This analysis is borne out by Lenin's next succeeding pertinent section in his conclusions which actually states

in brief, the essential teachings of the entire treatise (p. 72 of Ex. 21):[10]

> "The whole point now is that *the Communists of every country* should quite consciously take into account *both the main fundamental tasks of the struggle against opportunism and 'Left' doctrinairism*[11] *and the specific features which this struggle assumes and inevitably must assume in each separate country in conformity with the peculiar features of its economics, politics, culture, national composition (Ireland, etc.), its colonies, religious division*, etc.[12] Everywhere we observe that dissatisfaction with the Second International is spreading and growing, both because of its opportunism, and because of its inability, or incapacity, to create a really centralized, a *really leading centre that would be capable of directing the international tactics of the revolutionary proletariat in its struggle for a world Soviet republic.*[13] We must clearly realize that such a leading centre cannot under any circumstances be built up on stereotyped, mechanically equalized and identical *tactical* rules of struggle.[14] As long as national and state differences exist among peoples and countries—and these differences will continue to exist for a very long time even after the dictatorship of the proletariat has been established on a world scale—the unity of international tactics of the Communist working class movement *of all countries* demands, not the elimination of variety, not the abolition of national differences (that is a foolish dream at the present moment), *but such an application of*

10. This particular passage is so full of meaning that the Presiding Inspector quotes it without breaking its continuity by comments. Instead his annotations, where pertinent, are being placed in footnotes.

11. Which is to find the correct path towards overthrow of the bourgeoisie and bourgeois government and establishment of the Dictatorship of the Proletariat.

12. i.e., Modification of tactics to suit the peculiar conditions.

13. This states the "raison d'etre" of the Third International. It must be carefully noted that the objective of the tactical struggles of the revolutionary proletariat is declared to be a world *Soviet* republic and not the ultimate classless society.

14. Exactly to the point—flexibility in tactics are stated here to be necessary.

the fundamental principles of Communism (Soviet power and the dictatorship of the proletariat)[15] as will CORRECTLY MODIFY these principles in CERTAIN PARTICULARS, correctly adapt and apply them to national and national-state differences.[16] The main task of the historical period through which *all* the advanced countries (and not only the advanced countries) are now passing is to investigate, study, seek, divine, grasp that which is peculiarly national, specifically national in the CONCRETE MANNER in which *each* country APPROACHES the *fulfilment* of the SINGLE *international task*, the victory over opportunism and 'Left' doctrinairism within the working class movement, *the overthrow of the bourgeoisie and the establishment of a Soviet republic and a proletarian dictatorship.*[17] The main thing—not everything by a very long way, of course, but the main thing—has already been achieved in that it has ranged itself on the side of the *Soviet power against parliamentarism, on the side of the dictatorship of the proletariat against bourgeois democracy.*[18] Now all efforts, all attention, must be concentrated on the NEXT step—which seems, and from a certain standpoint really is, less fundamental, but which, on the other hand, is actually much closer to the practical carrying out of the task—namely, on seeking the forms of TRANSITION or APPROACH *to the proletarian revolution.*[19]

"The proletarian vanguard has been *ideologically* won over.[20] That is the main thing. Without it

15. Here is a clear statement that the strategic objective, the fundamental strategic Communist principle, is the Soviet form of the dictatorship of the proletariat.

16. This phrase taken out of context might be interpreted to mean a variation upon the strategic objective, but the next sentence makes clear the phrase's limited scope.

17. Manifestly, the overthrow of the bourgeoisie and establishment of the Soviet form of the Dictatorship of the Proletariat remain the inflexible strategic objective, despite variation in the approach.

18. The antipodal contrast here is relevatory.

19. Again, the entire point is clearly expressed: variation in tactics to achieve the fixed objective.

20. The vanguard, of course, is the organization in each country which affiliated with the Communist International.

not even the first step towards victory can be made. But it is still a fairly long way from victory. Victory cannot be won with the vanguard alone. To throw the vanguard alone into the decisive battle, before the whole class, *before the broad masses* have taken up a position either of direct support of the vanguard, *or at least of benevolent neutrality towards it*[21] and one in which they cannot possibly support the enemy, would be not merely folly but a crime. And in order that actually the whole class, that actually the broad masses of toilers and those oppressed by capital may take up such a position, propaganda and agitation are not enough. For this the masses must have their own political experience. Such is the fundamental law of all great revolutions, now confirmed with astonishing force and vividness not only in Russia but also in Germany. Not only the uncultured, often illiterate masses of Russia, but the highly cultured, entirely literate masses of Germany had to realize through their own painful experience the absolute impotence and spinelessness, the absolute helplessness and servility to the bourgeoisie, the utter vileness of the government of the knights of the Second International, the absolute inevitability of a dictatorship of the extreme reactionaries (Kornilov in Russia, Kapp and Co. in Germany) as the only alternative to a dictatorship of the proletariat, in order to turn them resolutely toward Communism.

"The immediate task that confronts the class-conscious vanguard of the international labour movement, i.e., the Communist Parties, groups, and trends, is to be able to LEAD the broad masses (now, for the most part, slumbering, apathetic, hidebound, inert, and dormant) to their new position, or, rather, to be able to lead NOT ONLY their own party, but also these masses in their approach, their transition to the new position * * *[22]

"As long as the question was (and in so far as it still is) one of winning over the vanguard of the

21. i.e., not fight on the side of the bourgeoisie.

22. i.e., the task is the proper tactical approach to obtaining the support of neutrality of the masses towards the revolution.

proletariat to Communism, so long, and to that extent, propaganda took first place * * *. But when it is a question of the practical activities of the masses, of the alignment of ALL the class forces of the given society FOR THE FINAL AND DECISIVE BATTLE, then propaganda habits alone, the mere repetition of the truths of 'pure' Communism are of no avail * * *. In these circumstances, we must not only ask ourselves whether we have convinced the vanguard of the revolutionary class, but also whether the historically effective forces of ALL classes—positively of all the classes of the given society without exception—are aligned in such a way that the decisive battle has fully matured; in such a way that (1) all the class forces hostile to us have become sufficiently entangled, sufficiently at loggerheads with each other, have sufficiently weakened themselves in a struggle which is beyond their strength; that (2) all the vacillating, wavering, unstable, intermediate elements—the petty bourgeoisie and the petty-bourgeois democrats, as distinct from the bourgeoisie—have sufficiently exposed themselves in the eyes of the people, and have sufficiently disgraced themselves through their practical bankruptcy; and that (3) among the proletariat a mass sentiment in favour of supporting the most determined, supremely bold, revolutionary action against the bourgeoisie has arisen and begun vigorously to grow. Then revolution is indeed ripe; then, indeed, if we have correctly gauged all the conditions indicated, briefly outlined above, and if we have chosen the moment[23] rightly, our victory is assured.

"The divergences between the Churchills and the Lloyd Georges—with insignificant national differences these[23] political types exist in ALL countries[24] —on the one hand, and between the Hendersons and the Lloyd Georges on the other, are quite unimportant and petty from the standpoint of pure, i.e.,

23. This is that "certain stage" referred to earlier.

24. For example, in the United States, the Landon Republicans and the Roosevelt Democrats?

abstract Communism, i.e., Communism that has not yet matured to the stage of practical mass action.[25] But from the standpoint of this practical mass action, these differences are very, very important. The whole point, the whole task of the Communist, who wants to be not merely a class-conscious, convinced and intellectually consistent propagandist but a practical leader of the MASSES in the revolution is to take these differences into account, *to determine the moment* when the inevitable conflicts between these 'friends', which will weaken all THE 'FRIENDS' TAKEN TOGETHER and render them impotent, will have completely matured. The strictest loyalty to the ideas of Communism must be combined with the ability to make all the necessary practical compromises, to manoeuvre, to make agreements, zigzags, retreats and so on, so as to accelerate the coming to power and subsequent loss of power of the Hendersons (the heroes of the Second International, if we are not to mention the names of individuals; the representatives of petty-bourgeois democracy who call themselves Socialists); to accelerate their inevitable bankruptcy in practice, which will enlighten the masses in the spirit of our ideas, in the direction of Communism; to accelerate the inevitable friction, quarrels, conflicts and complete disintegration among the Hendersons, the Lloyd Georges and Churchills (Mensheviks, Social-Revolutionaries, Constitutional Democrats, Monarchists; Scheidermans, the bourgeoisie, the Kappists, etc.);[26] *and to select the proper moment when the disintegration among these 'pillars of the sacred right to private property' is at its height, in order, by a determined attack of the proletariat, to defeat them all and capture power.*

"* * * From this follow two very important practical conclusions: first, that in order to fulfil its task the revolutionary class must be able to master *all* forms or sides of social activity without exception * * *; second, that the revolutionary class

25. Does this not explain the absence of any overt illegal acts in the struggle here to date?

26. It is very obvious that Lenin adverts to all capitalist countries in this treatise.

must be ready to pass from one form to another in the quickest and most unexpected manner.

"* * * Inexperienced revolutionaries often think that legal methods of struggle are opportunist because in this field the bourgeoisie has most frequently (especially in 'peaceful', non-revolutionary times) deceived and fooled the workers, and that illegal methods of struggle are revolutionary. But that is not true. What is true is that those parties and leaders are opportunists and traitors to the working class who are unable or unwilling (don't say you cannot, say you won't!) to adopt illegal methods of struggle in conditions such as those which prevailed, for example, during the imperialist war of 1914-18, when the bourgeoisie of the freest democratic countries deceived the workers in the most insolent and brutal manner, forbidding the truth to be told about the predatory character of the war. But revolutionaries who are unable to combine illegal forms of struggle with EVERY form of legal struggle are poor revolutionaries indeed. It is not difficult to be a revolutionary when the revolution has already flared up and is raging * * *. It is far more difficult—and far more useful—to be a revolutionary when the conditions for direct, open, really mass and really revolutionary struggle DO NOT YET EXIST, to defend the interests of the revolution (by propaganda, agitation and organization) in non-revolutionary bodies, and even in downright reactionary bodies, in non-revolutionary circumstances, among the masses who are incapable of immediately appreciating the need for revolutionary methods of action. *The main task of contemporary Communism in Western Europe and America is to learn; to seek, to find, to correctly determine the specific path or the particular turn of events that will* BRING *the masses* RIGHT UP AGAINST *the real, last, decisive and great revolutionary struggle.*"[27] (Inspector's Note: Italics supplied; capitals represent italics in the original.)

27. This is again exactly the point; the task is to adapt tactics to the objective circumstances so as to get the masses acquiescent to revolutionary action against the bourgeoisie.

Thus stands fully revealed the main present-day task set by Lenin for the Communists of all bourgeois states. And how are the Communists to utilize non-revolutionary, and even downright reactionary political bodies (in non-revolutionary circumstances) to propagandize, agitate and organize in the defense of the interests of the revolution so that the masses may be led right up to the decisive revolutionary struggle? Lenin explains how (pp. 78 and 79 of Ex. 21):

> "The Communists of Great Britain should constantly, unremittingly, and undeviatingly utilize parliamentary elections and all the vicissitudes of the Irish, colonial and world imperialist policy of the British Government, and all other spheres and sides of public life, and work in all of them in a new way, in a Communist way, in the spirit of the Third, and not of the Second International * * *. The Communists in Western Europe and America must learn to create a new, unusual, non-opportunist, *non-careerist* parliamentarism; the Communist Parties must issue their slogans; real proletarians, with the help of the unorganized and downtrodden poor, should scatter and distribute leaflets, canvass workers' houses and the cottages of the rural proletarians and peasants * * *, they should go into the most common taverns, penetrate into the unions, societies and casual meetings where the common people gather, and talk to the people, not in a scientific (and not in very parliamentary) language, *they should not at all strive to 'get seats' in parliament,*[28] but should everywhere strive to rouse the minds of the masses and to draw them into the struggle, *to catch the bourgeois on their own statements,* to utilize the apparatus they have set up, the elections they have appointed, the appeals to the country they have made, *and to tell the people what Bolshevism is in a way that has never been possible (under bourgeois rule) outside of election times* (not counting, of course, times of big strikes, when, in Russia, a SIMILAR apparatus for widespread popular agitation worked even more intensely). It

28. This contradicts the statement of the witness, Schneiderman, that the primary object of Communist parliamentarians is to get elected (R. 543).

> is very difficult to do this in Western Europe and America, very very difficult, but it can and must be done, because the tasks of Communism cannot be fulfilled without effort * * *.
>
> "In Great Britain, too, the work of propaganda, agitation, and *organization among the armed forces*, and among the oppressed and unfranchised nationalities in 'one's own' state (Ireland, the colonies) must be organized in a new way (not in a Socialist, but a Communist way, not in a reformist, but a revolutionary way) * * *. We do not know and cannot know which spark—of the innumerable sparks that are flying around in all countries as a result of the economic and political world crisis—will kindle the conflagration, *in the sense of specially rousing the masses*, and we must, therefore, with the aid of our new, Communist principles, set to work to 'stir up' all and sundry, even the oldest, mustiest, and seemingly hopeless spheres * * *." (Inspector's Note: Italics supplied; capitals represent italics in the original.)

(This Leninist view of what Communists should do in respect to parliamentarism is in direct contradiction to the witness, Schneiderman's statement that Leninism preached the use of parliamentary means to put a government in office that would work towards a classless society (R. 366). It may be noted that when this passage was brought to the witness' attention, he made a very circumspect statement (R. 543), even though he persisted in denying the import of Lenin's teaching on the point (R. 544).

It is apparent then that Lenin teaches here that the proper Communist parliamentary tactics do not involve striving to be elected to seats in Parliament, but involve instead ceaselessly pointing out to the masses the deficiencies of the bourgeois governmental system and the evils of imperialist capitalism, while at the same time playing up the merits of Communism, and through such propaganda and agitation endeavor to bring the masses up against the "real last, decisive, struggle"—to rouse them to a consciousness of the necessity for the revolutionary overthrow of the bourgeoisie and its governmental apparatus conjointly with the establishment of the dictatorship of the proletariat—the Soviet system.

In the appendix, wherein Lenin adds a few notes, he emphasizes the foregoing Marxist-Leninist view of parliamentarism in a remark upon the difficulties faced by the Communists under the rule of the bourgeoisie (p. 93 of Ex. 21):

> "* * * it is 'difficult' to expel from the party the ordinary parliamentary leaders who have been hopelessly corrupted by bourgeois prejudices; * * * it is 'difficult' to form in a bourgeois parliament a Communist fraction fully worthy of the working class; *it is 'difficult' to ensure that the Communist parliamentarians do not play the bourgeois parliamentary game of skittles, but concern themselves with the very urgent work of propaganda, agitation, and organization of the masses.* All this is 'difficult', there is no doubt about it; it was difficult in Russia, and it is incomparably more difficult in Western Europe and America, where the bourgeoisie is far stronger, where bourgeois-democratic traditions are stronger * * *" (Inspector Note: Italics supplied.)

One last, further point of importance in the appendix directly relevant to the issue is Lenin's advice to the German Communists to enter into a compromise with the Independent Party, *so long as the Independent Party enjoyed the confidence of the majority of the urban workers.* This compromise is a proper tactic, Lenin explains, because through the Independents coming into government office, these workers will come to lose their last illusion about bourgeois democracy and bourgeois capitalism—because the Independents will reveal by their deeds in office how they have fooled themselves and how they are fooling the workers. Now, what is this compromise, this tactical maneuver, that Lenin says the German Communists ought to enter into because the majority of the urban workers follow the Independents? It should consist, postulates Lenin, "in renouncing for a certain period all attempts at the violent overthrow of a government which enjoys the confidence of a majority of the urban workers" (p. 88 of Ex. 21). Such a compromise necessarily connotes that when such a government no longer enjoys the confidence of the urban workers (and it must be observed that Lenin in a connected preceding paragraph points out that

petty-bourgeois leaders "do not and cannot go beyond the bounds of bourgeois democracy, which in its turn, cannot but be the dictatorship of capital" (p. 87 of Ex. 21), then the Communists ought to proceed with their attempts at the violent overthrow of the Government (which in Germany was then a bourgeois republic).

It is the Presiding Inspector's considered conclusion upon the basis of the foregoing complete analysis, in relation to the crucial issue, of the philosophic whole of "'Left Wing' Communism, An Infantile Disorder", that in this work Lenin teaches and advocates the overthrow of all bourgeois state governments, including the Government of the United States, by an insurrection involving such force and violence as is necessary to accomplish the seizure of political power by the proletariat led by its Communist vanguard and the substitution in their stead of "Dictatorships of the Proletariat" in Soviet form. The Presiding Inspector has essayed an objective study of the treatise, and throughout has attempted to discern the true import of the writing *as an entity*. He has not consciously twisted or distorted the meaning of any passage in reaching his determination. It is his considered view that only by taking a few sections of the work out of context is it possible to spell out a teaching such as the witness, Schneiderman, alleged he drew from Lenin's writings. The Presiding Inspector is convinced that this treatise is not validly open to any interpretation other than that its teachings amount to advocacy of the objective proscribed by the Statute. Since the fact is established that the Communist Party purposively distributed and circulated this pamphlet during the period of respondent's membership, the deportation provision charging "distribution and circulation" is found to be sustained in so far as this pamphlet is concerned.

The remaining writing in evidence of Lenin is his essay, "A Letter to American Workers", placed in evidence in pamphlet form. This document was authenticated by the witness, Schneiderman (R. 479; Ex. 48). According to the foreword of the pamphlet, Lenin in this writing addressed himself to the American workers in 1920, when the Russian Soviets were beleaguered by Anglo-Japanese-French-American military forces, in an appeal for understanding of the Bolshevik position (pp. 3 to 8 incl. of Ex. 48). This tract is of limited importance to the central issue in this

case. Its significance in relation to the crucial issue appears to lie principally in the fact that its portentous references to the United States follow exactly the precepts Lenin sets out in his above-discussed theoretical writings. It does not add anything new to the teachings of Lenin that have already been reviewed. In this work Lenin asserts that other "detachments" (or branches) of the international (Communist) movement exist, and are maturing as the excesses of imperialism continue. He declares that the workers are severing their connections with reactionary "social-traitors"—he mentions various trade union leaders as types, among them, "Gomperses", as the American variety of these reactionary trade union leaders. He strongly expresses his conviction that internationally "the workers are going slowly, but unswervingly towards *Communist, Bolshevik tactics, towards the proletarian revolution,* which is the only one capable of saving perishing culture and perishing mankind" (p. 22 of Ex. 48).

Lenin asserts in this Letter that the Rusian Communists (Bolsheviks) stake their chances "on the inevitability of the *international* revolutions, but this in no way means that we are so foolish as to stake out chances on the inevitability of the revolution within a STATED short period" (p. 22 of Ex. 48). In this connection, Lenin forecasts that help from the American workers "will probably not come soon, for the development of the revolution proceeds with a different tempo and in different forms in different countries (and it cannot be otherwise)" (p. 21 of Ex. 48). With respect to Lenin's reference to "different forms", it is clear from the particular context that Lenin refers here to "different forms" of the *development* of the revolution, not to "different forms" of the *revolution,* itself.

Lenin postulates that "the Soviets of workers and peasants are a new TYPE of State, a new and higher TYPE of democracy, the form of the dictatorship of the proletariat, a means of ruling the state WITHOUT the bourgeoisie and AGAINST the bourgeoisie" (p. 20 of Ex. 48). He then significantly observes (p. 21 of Ex. 48):

> "A union of the dictatorship of the proletariat with a new democracy for the toilers—*civil war* with the broadest involving of the masses in politics—such union is neither to be achieved at once nor is it to be fitted into the dreary forms of routine parliamentary democracy.

> "While old bourgeois-democratic constitutions spoke about *formal* equality and right of assembly, our proletarian and peasant Soviet constitution casts aside *the hypocrisy of formal equality.* When bourgeois republicans overthrew thrones they did not care about formal equality of monarchists with republicans. When we speak of the overthrow of the bourgeoisie, only traitors or idiots will seek to concede to the bourgeoisie formal equality of rights * * *." (Inspector's Note: Italics supplied.)

This passage constitutes a general augury of an insurrection process whereby the international bourgeoisie shall be overthrown, and is in accord with Leninism's distinguishment between bourgeois "democracy" and proletarian "democracy", which will be detailed later in relation to the structure of that "new type of state"—the Soviet form of the "Dictatorship of the Proletariat"—espoused by "Leninism".

The revolutionary import of the Letter is revealingly stated in the following declaration (p. 16 of Ex. 20):

> "For the class struggle in revolutionary times has always *inevitably* and in every country taken on the form of a CIVIL WAR, and civil war is unthinkable without the worst kind of destruction, without terror and limitations of formal democracy in the interests of the war." (Inspector's Note: Italics supplied; capitals represent italics in the original.)

Lenin here compares the class civil war against the wage-slavery of the bourgeoisie to the Civil War in the United States in which the issue involved expropriation of the property of the slave owners, and asserts that the representatives and defenders of the bourgeoisie supported the latter Civil War, and yet do not want to understand the necessity and legality of civil war to free the modern wage-slaves (p. 17 of Ex. 20). While this single passage is open to an interpretation that Lenin advocated civil war against the bourgeoisie when the legality of the situation was with the insurgents who seek to free the wage-slaves, the import of the Letter as an entity tends rather to support the interpretation that in this passage (and in the whole letter),

Lenin deems a civil war against the international bourgeoisie to be necessary and morally justified, irrespective of its legality under bourgeois laws or when judged by bourgeois standards of morality (which legal and moral criteria, incidentally, govern in deciding the crucial issue in the case). It is the opinion of the Presiding Inspector that the more tenable concluson of the two possible inferences set forth above in relation to the Schneiderman case, supra, is that this Letter, studied as a whole, itself advocates the overthrow of the American bourgeoisie, and its "imperialist" bourgeois government, by means of an insurrection involving such force and violence as are necessary under the circumstances to accomplish the postulated objective—the establishment of the Soviet form of the "Dictatorship of the Proletariat".

The introduction to the pamphlet, written in 1934, sets forth that the lessons contained in the Letter are "as fresh and appropriate today as when it was penned" almost sixteen years before (p. 8 of Ex. 48). The witness, Schneiderman, testified to its circulation and distribution during the period of respondent's membership (R. 479 and 482). Accordingly, while the Presiding Inspector recognizes that this conclusion is not established beyond question, it is his considered finding that the circulation of this document cumulatively supports the "circulation and distribution" deportation charge.

The next documents in evidence to be examined are two writings by Joseph Stalin on the subject of Leninism, the first, "Foundations of Leninism" (Ex. 22), being a series of lectures delivered in 1924 by the author reviewing the whole field of "Leninism", and the second "Problems of Leninism" (Ex. 23), being a polemical work, written in 1926, in which Stalin apparently was seeking to refute certain views expressed by one Zinoviev in relation to "Leninism" by citing passages from the whole of Lenin's writings as authority to support his own position as to the essence of "Leninism".

These two pamphlets, studied as entities, do not appear to add any new theoretical concepts or practical principles to the body of the Marxist-Leninist ideology contained in the writings which have already been reviewed in this Opinion. Nonetheless, their contents are revelatory, in that they disclose an attitude of obeisance to Lenin as an oracular seer of Communism, whose dicta are the final

authority which resolves controversies between Marxist-Leninist polemicists. This observation is relevant to the determination reached earlier in this Opinion that the Communist organizations involved in the deportation issued in this case have pledged faithful adherence to "Marxism-Leninism".

Moreover, these two writings of Stalin not only refer deferentially to the above-discussed theoretical writings of Lenin which are in evidence in this case, but also reveal reliance upon their teachings as being expository of the entire ideological field of "Leninism". A comparison of the precepts set forth in these treatises of Stalin, particularly "Foundations of Leninism", with the doctrines postulated by Lenin in "State and Revolution" and "'Left Wing' Communism, an Infantile Disorder" reveals an exact correspondence between their Leninist ideological teachings. Stalin's writings in evidence contain simple prose and therefore present the ideas of "Leninism" very clearly and sharply, leaving no room for misinterpretation. Some of Lenin's teachings pertinent to the issue stand out in even bolder relief in Stalin's elucidations, than they do in the original. The significance of the exact ideological similitude between Stalin's review of "Leninism" and the concepts the Presiding Inspector has discerned in Lenin's theoretical writings in evidence is enhanced by the fact that Stalin is indisputably a disciple of Lenin and his review of "Leninism" comprehends *all* of Lenin's works. Hence his authoritative exposition of "Leninism" proves that the contention of the witness, Schneiderman, that Lenin's teachings cannot be gleaned from a study of only a few of his important writings is baseless.

With reference to Stalin's earlier, and more comprehensive (of the two) review of "Leninism", "Foundations of Leninism", it is noted that this pamphlet was authenticated and established to be an important document by all three witnesses (R. 158, 261 and 333). While it is recognized by the Presiding Inspector that an analysis of this writing is repetitive, the Presiding Inspector considers Stalin's exposition in it of the teachings of Lenin relevant to the central issue in this case to be so clear and unmistakable that it is necessary to set out its material points, both to show its correspondence to Lenin's theoretical teachings which have already been covered, and to establish that this writing, per se, advocates the proscribed objective,

Department of Justice Record Annexed to the Return

Opinion of Presiding Inspector, Gilbert Zimmerman on the Reopened Hearing

In his introduction to the lectures contained in this pamphlet, Stalin states that the lectures offer "a concise synopsis of the principles of Leninism", and points out that to expound Leninism "means to expound the distinctive and the new * * * that Lenin contributed to the general treasury of Marxism" (p. 9 of Ex. 22). In relation to the methodology of Leninism, Stalin asserts that "Lenin's method is not only the restoration, but also the concretization and further development of the critical and revolutionary method of Marx, of his materialist dialectics" (p. 27 of Ex. 22). He declares that Lenin restored "the revolutionary content of Marxism", and "also took a step forward, developing Marxism further under the new conditions of capitalism and of the class struggle of the proletariat" (p. 10 of Ex. 22). He further expounds: "Leninism is not merely a Russian, but *an international phenomenon* rooted in the whole of *international* development (p. 10 of Ex. 22). In view of these authoritative assertions, the witness Schneiderman's statement that there is no point in trying to distinguish between the teachings of Marx and Engels, on the one hand, and the teachings of Lenin, on the other (R. 514) must be rejected. It is precisely that new something, Leninism's concretization of the method for achieving the transitional objective of Marxism, and Leninism's formulation of the integrated unitary nature of the whole of the international proletarian revolution, that go to the crucial issue in this case.

In "Foundations of Leninism", there is revealed in all clearness the world-wide perspective of the Leninist ideology. Stalin in reviewing the historical roots of Leninism, asks rhetorically whether it is surprising that a country like Russia, which has accomplished the first revolutionary task of the proletariat, "should have been the birthplace of the theory and tactics of the proletarian revolution" or that "Lenin, the leader of this proletariat, became the creator of this theory and tactics and the leader of the *international* proletariat?" (p. 19 of Ex. 22). He asserts that the Russian Communists forged "a new fighting weapon for the proletariat—the theory and tactics of the proletarian revolution—*in order to facilitate the task of overthrowing capitalism for the proletarians of all countries*" (pp. [illegible] and 18 of Ex. 21). In the introduction to the treatise, Stalin in effect asserts that while "Leninism is the application of Marxism to the peculiar conditions of

the situation in Russia, it is not only "a purely Russian, and only a Russian phenomenon * * * Leninism is not merely a Russian, but an *international phenomenon rooted in the whole of international development*" (pp. 9 and 10 of Ex. 22). Accordingly, the claim of the witness, Schneiderman, that Leninism is purely a Russian phenomenon is also discredited.

Stalin's lecture on the theoretical side of Leninism furnishes further substantiation for the conclusion that the Marxist-Leninist ideology is international in scope. He quotes Lenin's words to the effect that a revolutionary theory is necessary for a revolutionary movement and that the role of the vanguard can be fulfilled only by a party guided by the most advanced theory (p. 29 of Ex. 22). Stalin thereupon formulates three theses from which, he declares, proceeds the Leninist theory of the proletarian revolution. These theses make the unitary world-wide outlook of "Leninism" readily apparent. In substance, these theses postulate: first, the over-all domination in the capitalist countries of finance capital and the resultant omnipotence there of financial oligarchies (i.e. wealth controls the State) makes the yoke (exploitation and oppression) of the capitalist trusts and syndicates more and more burdensome to the mass of the people in those states and brings these masses to the proletarian revolution as the way out of their increasingly oppressed conditions. Hence the revolutionary crises within the advanced (trustified) capitalist countries are becoming more and more ready to explode into revolutionary action. Second, the domination of this finance capital extends from this handful of advanced capitalist countries to the colonial and dependent countries where this capital is used to exploit oppressively the natives whose numbers make up the vast majority of the population of the earth. Hence the revolutionary crises within the colonial and dependent countries tend to grow into revolts against the imperialist exploiters. Third, the struggle among this handful of more advanced capitalist and imperialist countries for monopolistic control over these profitable (to them) colonies and dependent countries unavoidably leads to wars among these contending imperialist nations. Therefore the inevitable and impending proletarian revolutions in the handful of advanced (trustified) capitalist countries become linked with the inevitable and imminent national revolutions in the colonial

and dependent countries, inasmuch as both are manifestations of the struggle against the international system of imperialist oppression of the bourgeoisie (pp. 33 and 34 of Ex. 22).

Stalin stresses that the conclusion to be drawn from the foregoing three theoretical theses is that these two abovementioned types of anti-imperialist revolts are interlinked. His trenchant conclusions are as follows (pp. 35 and 36 of Ex. 22):

> "* * * individual countries and individual national economies have ceased to be self-sufficient units, have become links in a single chain called world economy; for the old 'cultured' capitalism has evolved into imperialism, and imperialism is a world system of financial enslavement and colonial oppression of the vast majority of the population of the earth by a handful of 'advanced' countries.
>
> "* * * Now we must speak of the existence of objective conditions for the revolution in the entire system of world imperialist economy as an integral unit; the existence within this system of some countries that are not sufficiently developed industrially cannot serve as an insurmountable obstacle to the revolution, IF the system as a whole, or, more correctly, BECAUSE the system as a whole is already ripe for revolution.
>
> "* * * Now we must speak of the *world proletarian revolution;* for the separate national fronts of capital have become links in a single chain called the world front of imperialism, *which must be opposed by a common front of the revolutionary movement in all countries.*
>
> "* * * Now the proletarian revolution must be regarded primarily as the result of the development of the contradictions within the world system of imperialism, as the result of the snapping of the chain of the imperialist world front in one country or another." (Inspector's Note: Italics supplied; capitals represent italics in the original.)

Stalin then points out that the proletarian revolution will next occur in the country in which the imperialists are

weakest, even though that country may be less developed industrially (i.e., less ready for proletarian state Socialist organization). He cites Russia as the prime example, in that the revolutionary proletariat there was able to take advantage of the particular moment when a great popular revolution was unfolding, which involved the vast mass of the oppressed peasantry, as well as the proletariat, and so provided the mass base for the revolution. He asserts: "The chain proved to be weaker in Russia, although that country was less developed in a capitalist sense than, say, France or Germany, England or America" (p. 36 of Ex. 22). Stalin then proceeds to the conclusion that the imperialists' alliance with the reactionary ruling cliques in all countries (seeking profitable exploitation) makes imperative the coalition, against this alliance, of all revolutionary forces—the proletarian movement in the advanced capitalist countries and the national liberation movement in the countries in vassalage to the imperialist countries (p. 38 of Ex. 22). Stalin points out that these *world-wide* conditions "lead not only to the possibility, but also to the necessity of the victory of the proletariat in individual countries". However, he cautions, "the overthrow of the bourgeoisie can be successfully accomplished *only when certain necessary conditions exist,* in the absence of which, there can be even no question of the proletariat taking power" (p. 44 of Ex. 22). In explication of these necessary conditions, Stalin quotes directly the significant passage from Lenin's "'Left Wing' Communism, An Infantile Disorder", which lays down Lenin's formulation of the fundamental law of revolution. This passage has already been examined in this Opinion in relation to its revolutionary significance—its substance is that the objective situation must be ripe for insurrection, the workers ready for revolt, and the government weak enough so that the revolutionaries can overthrow it rapidly (p. 45 of Ex. 22).

Stalin then concludes his elucidation of the theory of "Leninism" by quoting Lenin to the effect that the victorious proletariat, in Russia now, and in whatever other countries the revolution succeeds, have to do "the utmost possible * * * for the development, support, and awakening of the revolution *in all countries*" (p. 46 of Ex. 22).

In the lectures of "Fundamentals of Leninism" which have just been reviewed, Stalin's clear commentaries upon the Leninist theory conjure up a panorama of impending

world-wide proletarian or prolétarian inspired revolution, aided and abetted by the proletariat in the U.S.S.R. in any way possible, and make palpably evident the purpose behind the establishment of the Communist International. It appears indisputable from Stalin's explication of "Leninism" that the United States is within the purview of this world outlook of Leninism, and is comprehended within the category of that "handful" of imperialist countries in which the proletarian revolution not only is inevitable, but also to be fostered by the international forces of the proletariat.

The Leninist postulation as to the means whereby the proletarian revolution is to be accomplished internationally is clearly revealed in Stalin's lectures on the methodology of Leninism and on the "Dictatorship of the Proletariat". Stalin's exposition is so lucid, and its congruity with the tactical precepts discerned in Lenin's treatises in evidence is so patent, that the conclusions already reached in this Opinion with respect to the revolutionary import of "Leninism" are strongly reinforced.

In connection with his exposition of the methodology of Lenin, Stalin deals with the opportunism of Kautsky, and of the whole Second International, in exactly the same vein as, it has been observed, Lenin did. In criticizing this opportunism, Stalin, like Lenin, discloses the violent revolutionariness of Leninism, particularly by openly rejecting the parlimentary evolutionariness of the Second International.

Stalin censures certain dogma, which, he states, the opportunists of the Second International asserted. He alleges that these Opportunists, while professing "revolutionary" slogans, pigeonholed them when it came time to put these slogans into action. Stalin states that they thereby revealed their "flabby philistinism", "political bargaining" and "parliamentary scheming" (pp. 20 and 21 of Ex. 22).

The first theoretical dogma of the opportunists that Stalin attacks is the postulation "that the proletariat cannot and ought not to take power unless it constitutes a majority in the country". Stalin terms this dogma, an *absurd* thesis. He replies to it, assuming arguendo that this dogma is correct, why should not the proletariat, constituting a *minority* in the population, take power in a historical situation wherein a war, or an agrarian crisis, or

some such evocative cause, provides the proletariat with "an opportunity to rally around itself the vast majority of the labouring masses?". He declares: "Has not the practical experience of the Russian proletarian revolution shown that this favourite dogma of the heroes of the Second International is *devoid of all vital significance* for the proletariat?" These utterances of Stalin echo Lenin's dictum regarding that "certain stage" for decisive revolutionary action, when the objective political situation is ripe.

The most direct statement of Stalin showing affirmation of Lenin's advocacy of the forcible taking of political power by the proletariat at the proper moment through transformation of strikes into a political strike, leading to an insurrection against the bourgeois state power appears in his rebuttal of the third dogma which, he says, the Opportunists of the Second International put forth. Stalin's trenchant dissertation in reference to this third dogma is as follows (pp. 24 and 25 of Ex. 22);

> "Third dogma: the proletariat cannot accept the method of the political general strike because it is unsound in theory (see Engels' criticism) and dangerous in practice (it may disturb the normal course of economic life in the country, it may deplete the coffers of the trade unions), and cannot serve as a substitute for the parliamentary forms of the struggle, which are the principal forms of the class struggle of the proletariat. (Inspectors Note: This opportunist dogma that Stalin is criticizing is on the same plane as Kautsky's advocacy of the conquest of state power by means of a parliamentary majority, and the conversion of parliament into the master of the government, which Lenin condemns in "State and Revolution", as aforementioned.) Very well, reply the Leninists, but firstly, Engels did not criticize every kind of general strike. He criticized a certain kind of general strike, namely, the ECONOMIC general strike advocated by the Anarchists IN PLACE of the *political struggle* of the proletariat. What has this to do *with the method of the* POLITICAL *general strike*? Secondly, where and by whom has it *ever* been proved that the parliamentary struggle is the principal form of the struggle of the proletariat? Does not the history of the revolutionary movement show *that the parliamen-*

tary struggle is only a school for and an aid in organizing the extra-parliamentary struggle of the proletariat, that under capitalism the *fundamental problems* of the working-class movement *are solved by force, by the direct struggle of the proletarian masses, their general strike, their insurrection?* Thirdly, who suggested that the method (Inspector's Note: tactic) of the political general strike be substituted for the parliamentary struggle? Where and when have the supporters of the political general strike tried to substitute extra-parliamentary forms of the struggle for parliamentary forms? Fourthly, has not the revolution in Russia shown that *the political general strike is the greatest school for the proletarian and an indispensable means of mobilizing and organizing the proletariat on the eve of storming the citadels of capitalism?* Why then the philistine lamentations over the disturbance of the normal course of economic life and over the coffers of the trade unions? Is it not clear that the experience of the revolutionary struggles smashes also this dogma of the opportunists?" (Inspector's Note: Italics supplied; capitals represent italics in the original.)

The Presiding Inspector finds the foregoing passage to be open to only one interpretation. It can be concluded from it only that "Foundations of Leninism", and the "Leninism" it expounds, teach and advocate the overthrow of the bourgeoisie and its state power in all bourgeois states and the attainment of political supremacy by the proletariat through means of a general political strike leading to an insurrection against the bourgeois state, which would involve such force and violence as was necessary to achieve the success of the revolution.

One further point to be noted from Stalin's elucidations of the methodology of Leninism is his contrast of "the Leninist policy of transforming the imperialist war into civil war with the treacherous policy of the Second International during the war . . ." (p. 25 of Ex. 22). This observation of Stalin is illuminative, in relation to a Resolu-

tion adopted by the Sixth World Congress of the Communist International dealing with the Communist attitude toward war, which will be later discussed.

Stalin's lecture on the "Dictatorship of the Proletariat" sets forth, in a second conclusion that Stalin draws therein, an unmistakable affirmation of the Leninist position with respect to the use of force to overthrow the bourgeois state (p. 54 of Ex. 22):

> "SECOND CONCLUSION: The dictatorship of the proletariat cannot arise as the result of the *peaceful* development of bourgeois society and of bourgeois democracy; it can arise *only* as the result of the smashing of the *bourgeois state machine, the bourgeois army, the bourgeois bureaucratic machine, the bourgeois police.*" (Inspector's Note: Italics supplied.)

Immediately following this conclusion, Stalin repeats Lenin's discussion of Marx's exception of England and America from the category of countries in which proletarian domination has to be achieved by a violent revolution, and restates Lenin's proposition that in the present imperialist era this exception no longer holds true. Stalin concludes: "In other words, the law of *violent* proletarian revolution, the law of the smashing of the bourgeois *state machine*, as a *preliminary condition* for such a revolution, is an *inevitable* law of the revolutionary movement in the *imperialist countries* of the *world*" (p. 56 of Ex. 22). Stalin then asserts that in the *remote* future, the proletarian revolution is successful in these most important capitalist countries (which category includes the United States), then it will become possible for certain of the other capitalist countries to change peaceably to proletarian states. However Stalin significantly observes: "But this supposition applies only to a *remote* and possible future. With regard to the immediate future, *there is no ground whatsoever* for this supposition. Therefore Lenin is right in saying 'The proletarian revolution is impossible without the *forcible* destruction of the bourgeois state machine and the *substitution* for it of a NEW ONE . . .'" (p. 56 of Ex. 22).

In this connection, Stalin trenchantly asserts (pp. 52 and 53 of Ex. 22):

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> ". . . The dictatorship of the proletariat is not a mere change of government, *but a new state, with new organs of power both central and local*; it is the state of the proletariat, which has arisen on the ruins of the old state, the state of the bourgeoisie.
>
> "The dictatorship of the proletariat arises not on the basis of the bourgeois order, but in the process of the breaking up of this order after the overthrow of the bourgeoisie, in the process of the expropriation of the landlords and capitalists, in the process of the socialization of the principal instruments and means of production, in the process of *violent proletarian revolution*. The dictatorship of the proletariat is a revolutionary power based on the use of force against the bourgeoisie.
>
> . . . .
>
> "Briefly: THE DICTATORSHIP OF THE PROLETARIAT IS THE RULE—*unrestricted by law and based on force*—OF THE PROLETARIAT OVER THE BOURGEOISIE, A RULE ENJOYING THE SYMPATHY AND SUPPORT OF THE LABOURING AND EXPLOITED MASSES (THE STATE AND REVOLUTION)." (Inspector's Note: Italics supplied; capitals represent italics in the original.)

Stalin then clearly elucidates Lenin's teachings as to the character of this "new state"—the Soviet form of the proletarian dictatorship. Both Lenin's and Stalin's teachings with respect to the structure of this Soviet system will be explicated subsequently, following completion of this analysis of Stalin's writings in relation to the crucial issue.

The remainder of Stalin's lectures in "Foundations of Leninism" also follow through directly in the ideological path that Lenin sets in his writings in evidence, with regard to the relations between the proletariat and the peasantry, to the connection between strategy and tactics, and to the character of the Communist Party, in general (pp. 61 to 127 incl. of Ex. 22). It appears unnecessary for the purposes of resolution of the central issue in this case to analyse these further chapters in detail. One further point which, however, warrants noting is Stalin's reitera-

tion of Lenin's postulation with regard to an insurrection, which is to the effect that revolutionaries should never *play* with insurrection, for once it is begun, it must be resolutely carried to conclusion. Stalin quotes Lenin's words that "the defensive is the death of every *armed uprising*", and counsels the taking of the offensive at all costs (pp. 95 and 96 of Ex. 22). Then Stalin restates forcefully Lenin's admonition with respect to choosing the right moment for the insurrection (p. 96 of Ex. 22):

> ". . . the selection of the moment for the decisive blow, of the moment for starting the *insurrection*, so timed as to coincide with the moment when the crisis has reached its climax, when it is fully apparent that the vanguard is prepared to fight to the end, the reserves are prepared to support the vanguard, and maximum consternation reigns in the ranks of the enemy." (Inspector's Note: Italics supplied.)

The Leninist advocacy of the use of such force and violence as is necessary in an insurrection of the proletariat led by its vanguard, the Communist Party, to overthrow bourgeois state power in all capitalist countries, and particularly in such an advanced capitalist and imperialist country as the United States, and to establish concomitantly, the proletarian state in the form of the Soviet system in all such countries is so evident in this pamphlet, "Foundations of Leninism", that there cannot be any dispute over its interpretation in that connection. All of the aspects of the Marxist-Leninist ideology material to the crucial issue in this case stand forth very clearly in this work. Its circulation and distribution by the Communist Party of the U. S. A. during the period of respondent's membership, as testified to by all three witnesses, therefore, sustains the deportation charge relating to "circulation and distribution".

Adverting to the other writing of Stalin in evidence, "Problems of Leninism", it is noted as aforementioned, that this work is not as comprehensive a theoretical exposition as "Foundations of Leninism". "Problems of Leninism" appears to be a polemical justification by Stalin through references to Lenin's writings, of his own stand in regard to "Leninism". In it, he asserts that the "Dic-

tatorship of the Proletariat" and not the peasant question, is the core of "Leninism". This pamphlet was authenticated in evidence by all three witnesses (R. 159, 262 and 335; Ex. 23).

In its opening statements, "Problems of Leninism" reaffirms the declaration in "Foundations of Leninism" as to the international significance of "Leninism", and again defines "Leninism" as "the theory and tactics of the proletarian revolution in general, the theory and tactics of the dictatorship of the proletariat in particular (p. 7 of Ex. 23). Stalin significantly declares that any attempt to transform Leninism (such as one Comrade Zinoviev had attempted to do by introducing the peasant question into his definition of Leninism) "from an international proletarian doctrine into a specifically Russian product" means playing into the hands of the Opportunists, such as Kautsky, "who deny that Leninism is suitable to other countries, which are capitalistically more developed than Russia.

Stalin then rhetorically asks: "Have Lenin's works, such as Imperialism, State And Revolution, The Proletarian Revolution And The Renegade Kautsky, And "Left Wing" Communism, An Infantile Disorder, etc., significance only for Russia and not for all imperialist countries in general? *Is not Leninism* the generalization of the experience of the revolutionary movement of ALL countries? Are not the foundations of the *theory and tactics* of Leninism suitable and *obligatory* for the proletarian parties of *all countries*? Was Lenin wrong when he said that 'Bolshevism can serve as a model of tactics For All'? . . . Was Lenin wrong when he spoke of the 'International Significance . . . of the Soviet power and of the foundation of Bolshevik theory and tactics'? ('Left Wing' Communism)" (pp. 8 and 9 of Ex. 23).

(In view of this forthright declaration of the international importance of the theory and tactics taught by Lenin, it is amazing to find the witness, Schneiderman assertedly conversant with "Marxism-Leninism" contending that "Leninism" has but limited international application.

Stalin in this pamphlet takes the position that the core of Leninism is "the question of the dictatorship of the proletariat, of the conditions under which it can be won, of the conditions under which it can be consolidated" and that "the peasant question, as the question of the ally of

the proletariat in its struggle for power, is a secondary question resulting from the fundamental question (p. 10 of Ex. 23).

Stalin proceeds at length to substantiate this postulation. He discusses the characteristic features that distinguish the proletarian revolution from the bourgeois revolution, pointing out that the proletarian revolution "cannot avoid destroying the old state machine and replacing it by a new one" (pp. 16 and 17 of Ex. 23). He then asks oratorically: "Can such a radical transformation of the old bourgeois system of society be achieved without a *violent* revolution, without the dictatorship of the proletariat?" (p. 19 of Ex. 23). He answers this query negatively in the following significant passage (p. 20 of Ex. 23):

> "Obviously not. To think that such a revolution can be carried out *peacefully* within the framework of bourgeois democracy, *which is adapted to the domination of the bourgeoisie*, means one of two things. It means either madness, and the loss of normal human understanding, or else an open and gross repudiation of the proletarian revolution." (Inspector's Note: Underscoring supplied.)

In support of this view, Stalin quotes the following trenchant observation of Lenin (pp. 20 and 21 of Ex. 23):

> "That is why Lenin states that '. . . the liberation of the oppressed classes is *impossible*, not only *without a violent revolution, but also without the destruction of the apparatus of state power*, which was created by the ruling class . . .' (Inspector's Note: Italics supplied; capitals represent italics in the original.)

Continuing his explication of Lenin's teachings, Stalin sets forth that the petty-bourgeois democrats who call themselves "socialists", but who are really "henchmen of the bourgeoisie", claim that the majority of the population should first declare itself for the party of the proletariat, and then, and only then, should power be taken. Stalin thereupon gives Lenin's reply to these petty-bourgeois democrats in two passages taken from Lenin's Collected Works. These two passages go to the heart of the crucial issue, and conclusively show that "Leninism" ad-

vocates the overthrow by force and violence of bourgeois governments. These salient and revealing quotations from Lenin are as follows (pp. 20 and 21 of Ex. 23):

> "But we say: Let the revolutionary proletariat *first* overthrow the bourgeoisie, break the yoke of capital, *break up the bourgeois state apparatus. Then* the victorious proletariat will speedily gain the sympathy and support of the majority of the toiling non-proletarian masses by satisfying their wants at the expense of the exploiters . . .
>
> "In order to win the majority of the population to its side, . . . the proletariat must first of all overthrow the bourgeoisie and *seize state power*, and secondly, *it must introduce Soviet rule, smash to pieces the old state apparatus*, and thus at one blow undermine the rule, authority and influence of the bourgeoisie and of the petty-bourgeois compromisers in the ranks of the non-proletarian toiling masses. Thirdly, the proletariat must COMPLETELY and FINALLY DESTROY the influence of the bourgeoisie and of the petty-bourgeois compromises among the MAJORITY of the non-proletarian toiling masses by the REVOLUTIONARY satisfaction of THEIR economic needs AT THE EXPENSE OF THE EXPLOITERS." (Inspector's Note: Italics supplied; capitals represent italics in the original.)

The foregoing two paragraphs reveal in a nutshell, so to speak, the essence of the political strategy of "Leninism", and incontrovertibly establish that the Leninist ideology envisages the overthrow of all bourgeois governments by such force and violence as is necessary in an insurrection, and then the further enlistment of wide popular support for the proletarian state by satisfying the economic needs of the masses by expropriation decrees.

The fact that the ideology contemplates the seizure of political power with complete disregard for electoral victories or constitutional process is very evident from the following passage (p. 22 of Ex. 23):

> "Replying to those who confuse the dictatorship of the proletariat with 'popular', 'elected', and 'non-class' government, Lenin states:

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> 'The class which has seized political power has done so conscious of the fact that it has seized power alone. This is implicit in the concept of the dictatorship of the proletariat. This concept has meaning only when one class knows that it alone takes political power into its own hands, and does not deceive either itself or others by talk about popular, elected government, sanctified by the whole people'."

So, then, the pamphlet, "Problems of Leninism", standing by itself, unequivocally advocates the taking of political power by the proletariat in all capitalist countries by revolutionary means involving the forcible overthrow of the existing bourgeois governments, no matter what their "democratic" or "reactionary" (in the bourgeois sense) character.

All three witnesses testified to the circulation and distribution by the Communist Party of the U. S. A. of this pamphlet (R. 159, 202 and 335). Accordingly, it is found that the "circulation and distribution" deportation charge is sustained so far as this writing is concerned.

The absolute affirmation by Stalin in these treatises on the whole subject of "Leninism", of every vital precept involved in the resolution of the crucial issue, found in the writings of Lenin in evidence, constitutes positive proof to support the conclusions reached on the basis of thorough direct study of Lenin's writings by the Presiding Inspector. It is incontestably established that the Marxist-Leninist ideology teaches and advocates the establishment of the Soviet form of the Dictatorship of the Proletariat in all capitalist countries, and especially in such an advanced capitalist country as the United States, by means of a revolutionary process involving the conversion of strikes into an insurrection against the existing bourgeois government at a properly gauged moment when that government has been sufficiently weakened by some internal or external crisis to the extent that a violent and forceful proletarian-led, Communist Party directed, revolution can successfully overthrow it. The Presiding Inspector is convinced from his study that the Marxist-Leninist ideology does not distinguish in any way between bourgeois "democratic" and bourgeois "reactionary" governments in relation to this advocacy—other than to postulate that between these types

of bourgeois states, the bourgeois "democratic" state can be more easily overthrown since it allows the revolutionary proletarians to use up to a point the freedom it affords and the principles of "formal" equality it is dedicated to, as means with which to work to put an end to the bourgeois state. (This Communist attitude towards the bourgeois democratic republic will be explicated below in relation to Lenin's and Stalin's exposition of the structure of the Soviet system.)

Now the purported views of the witness SCHNEIDERMAN (and of the respondent) appear to be directly contrary to the import of the above-discussed teachings of Lenin and Stalin. It appears to the Presiding Inspector that their contentions are tantamount to assumption of the very opportunist position of Kautsky and of the Second International that Lenin and Stalin excoriated.

The witness, SCHNEIDERMAN, made representations to the effect that the "Dictatorship of the Proletariat" is a vague Communist concept, and that the Communists in the United States had no "crystal ball" with which to divine the shape that the government they strive to establish in the United States will take (R. 537). Yet, Lenin and Stalin have very clearly espoused and described the Soviet form of the "Dictatorship of the Proletariat", which they postulated is to be the "grave digger, heir, and successor of bourgeois parliamentarism and of bourgeois democracy in general" and the Communist Party of the U. S. A. has, as already discussed, professed its adherence to the "Marxist-Leninist" ideology, and the Communist International has asserted in its "Program" that it stands "wholly and unreservedly" on the ground of "Leninism". Accordingly, it is found that the witness' aforementioned indefiniteness is unbelievable.

As has been remarked upon during the course of this Opinion, a great variance exists between what the witness, SCHNEIDERMAN, stated he learned from Lenin's writings, and what the Leninist writings in evidence appear clearly to teach. This diversity is most marked in relation to the concept of the "Dictatorship of the Proletariat".

The witness asserted that according to the general Communist view, the term "Dictatorship of the Proletariat" referred to "a relation of forces between classes". He alleged that the Presiding Inspector erred in construing the term to mean a form of government. He went so far

as to claim that "Leninism specifically referred to the Dictatorship of the Proletariat as not a form of government but a state of things" (R. 357 and 358). In view of the unmistakable statements in the Leninist writings in evidence in relation to this concept, the foregoing contention of the witness is entitled to no weight whatever. But, offical notice is administratively taken of the fact that in the witness' own case (Schneiderman v. United States, supra), the Supreme Court gave serious consideration to a similar assertion of the witness.[29] It therefore appears necessary to set out in detail Lenin's and Stalin's exact explication of the Soviet form of the "Dictatorship of the Proletariat". Before doing so, however, the Presiding Inspector desires to examine seriatim the witness, SCHNEIDERMAN's, contentions relevant to this concept.

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29. The witness' claim in this respect is stated in the Supreme Court decision (Schneiderman v. United States, supra) at page 124. The Court's own conclusion on the point is as follows (at p. 130):

> "The concept of the dictatorship of the proletariat is one loosely used, upon which more words than light have been shed. Much argument has been directed as to how it is to be achieved, but we *have been offered* no precise definition here. In the general sense the term may be taken to describe a state in which the workers, or the masses, rather than the bourgeoisie or capitalists are the dominant class. Theoretically, it is control by a class, not a dictatorship in the sense of absolute and total rule by one individual. So far as the record before us indicates the concept is a fluid one, capable of adjustment to different conditions in different countries. There are only meager indications of the form the 'dictatorship' would take in this country. It does not appear that it would necessarily mean the end of representative government or the Federal system."

Lenin's and Stalin's writings, to which the Communists in the United States profess adherence, set forth such a concrete outline of the Soviet form of the "Dictatorship of the Proletariat", that the concept cannot be considered to be fluid. This Soviet system that Leninism advocates for establishment in *all* bourgeois states, including the United States, definitely (as shall be set forth in the Opinion, above) would involve the end of the Federal system here and the substitution of a different type of representative institution for the Congressional (parliamentary) type of representative government in effect in the United States today. A study of the Supreme Court decision discloses that the above-noted incorrectly taken view of the Court arises from the following premises: first, as the decision reveals, the Government stressed only a certain few documents, among which the only writing of Lenin was "State and Revolution" (see note 40 and pp. 133-135 of the decision), and apparently relied upon only excerpts. In the opinion of the Presiding Inspector, the Government erred in not presenting a philosophic analysis of Marxism-Leninism (see notes 35-38); second, the Court balanced quotations presented in the defendant's behalf against the quotations relied upon by the Government, and reached its determination that two possible interpretations were tenable on the basis of this "Battle of quotations". Yet the Court itself observed in relation to the evidence relied on by the Government that "philosophies can-

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Firstly, his foregoing assertion that the term represents not a form of government, but "a relation of forces between classes" is sophistic because it is the fundamental, indisputably Marxist-Leninist, precept that the relation between the class forces in Modern Society is the State (the State being the manifestation of the dominance of one class over the others in Society). Moreover, the Leninist writings in evidence clearly postulate, time and again, that the Dictatorship of the Proletariat is the gov-

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not generally be studied into vacuo (and) meaning may be wholly distorted by lifting sentences out of context, instead of construing them as an organic whole" (at p. 136)

So it appears that the Court did not follow its own dictum when it accepted excerpts out of context. It is the opinion of the Presiding Inspector that a number of the theoretical passages submitted in behalf of the defendant without their context were misconstrued by the Court. The passages that appear to the Presiding Inspector to have been misinterpreted are contained in the following footnotes: footnote 26, where a passage written by Lenin before the Revolution is quoted: footnote 50, where a sentence from Stalin's writings on Lenin, taken wholly out of context, was given a distorted meaning definitely not in keeping with the sense of his writings; footnote 51, where a similiar twisting of meaning resulted from considering two excerpts from Lenin's writings out of context (Lenin NEVER preached seizure of power by a minority WHERE THE MAJORITY OF THE MASSES WERE NOT AT LEAST NEUTRALIZED IN RELATION TO THE CONFLICT—that point is one of his major preachments and is the reason why he criticized the BLANQUISTS (see p. 49 of Ex. 21)—he was a practical revolutionary realist, intent on having the proletarian revolution come off successfully. The quotation given in footnote 51 actually makes exactly this point; third, the body of the Supreme Court decision discloses that Schneiderman placed in evidence in his case the testimony of two college professors (see at pp. 116, 118). The decision at several points reveals its reliance upon the expositions of these college professors, and even follows some of their phraseology. Analysis of the dissertations of these professors discloses that they presented the teachings of Lenin eclectically, and treated him very cursorily in their analysis of Marxism. One of the professors went so far as to say that ... extensive exposition of Lenin's writings would add little to what is vital to the issue. The Presiding Inspector is convinced that the very opposite is true—that Lenin's writings go directly to the issue, where as Marx's and Engels' teachings are relevant only to the extent that their precepts furnish the basis that Lenin developed. It is exactly Lenin's "resuscitation" (advancement) of "revolutionary" Marxism, which the Socialist Second International had (Lenin says, opportunistically) glossed over, which is material to the issue. Lenin's own eclectic elucidations and extensive annotations of Marx's and Engels' writings reveal his ideological revolutionary advancement upon Marx and Engels. His development of the tactics which he taught are indispensable in achieving the seizure of state power by the proletariat under the modern-day imperialist conditions of capitalism, is Lenin's important accretion to Marxism. Any analysis of Marxism which treats Lenin's teachings discursively, and which fails to point up the Leninist contribution to the ideology, avoids the crux of the issue. It is for this very reason that the Presiding Inspector has attempted a thoroughgoing analysis of the philosophic content of Lenin's writings in evidence. His study has convinced the Presiding Inspector that Leninism constitutes the basic set of principles whose coherent whole provides the key to resolution of the central issue in this case.

ernmental form of the State which is to intervene between the bourgeois state and the classless Society. Lenin sets this forth unmistakably in the following passage, among others (p. 71 of Ex. 20):

> "* * * the transition from capitalist society, developing towards Communism, towards a Communist society, is impossible without a 'political transition period', and the state in this period can only be the revolutionary dictatorship of the proletariat."

Accordingly, the Presiding Inspector is constrained to conclude that in making this allegation, the witness either was confused—or desired to confuse the record. (Another instance of the witness' complete obfuscation of the point was his remark that "State and Revolution" was written by Lenin "on the eve of the revolution against Czarism" (R. 331), which he repeated at another place in his testimony (R. 475). The fact, as discussed earlier, is that this work was written after the deposition of the Czar and during the period when Russia had a bourgeois parliamentary government.)

Secondly, the witness advanced the contention that Lenin's writings (and the official declarations of the Communist International) did not necessarily advocate that a "Dictatorship of the Proletariat" be set up in the United States, in the Soviet, or any other form, during the transitional period intervening between the present bourgeois state and the advocated ultimate aim—the classless communal Society. The witness stated the contention in this way: that Lenin's teachings were fully applicable only to Russia or countries in similar "historical conditions". (The respondent had stated the same proposition essentially this way: the "Program" of the Communist International was a general guide, and did not call for specific application in all particulars in the United States.) It is observed that the witness, SCHNEIDERMAN, did not substantiate this statement and that he evinced uncertainty with respect to the meaning of several basic teachings of Lenin (R. 403 and 3[illegible]). No credence can be placed in this assertion of the witness in view of the fact that in their writings analyzed here, Lenin and Stalin specifically and directly, as already discussed, include the United States among the bourgeois states in which the Soviet form of the Dictator-

ship of the Proletariat is to be the "grave digger" and "successor" to the existing bourgeois democratic state. (Moreover, analysis of the "Program" of the Communist International in the original Opinion—it will later be reviewed here—disclosed its advocacy of the establishment of the Dictatorship of the Proletariat in all capitalist states, including the United States.)

Thirdly, no faith can be placed in the witness' declaration that Lenin's writings considered it possible to establish "Communism" in a bourgeois democracy, such as the United States, by a parliamentary (Congressional) majority, and legal adoption of the necessary constitutional changes. As aforementioned, both Lenin and Stalin absolutely reject parliamentarism as a means of achieving the "seizure of power" by the proletariat.

Fourthly, the witness' repeated assertion that Lenin's postulations (and the doctrines espoused by the Communist International) were based on the Russian experiences (R. 510 to 555 incl. and where aforecited) is essentially immaterial to the central issue. The foregoing analysis of Lenin's and Stalin's writings in evidence very clearly shows that the ideological precepts they preached were advocated to be applied internationally to all bourgeois states. So, then, it does not appear to matter whether it was Marx's and Engels' study of the whole history of civilized Society, or of the French Commune or of the experiences on the European continent in the nineteenth century, or Lenin's elucidations of Marxism drawn principally from Marx's and Engel's writings and from the Russian experiences, that provided the dialectical basis for the present-day formulation of the "Marxist-Leninist" ideology adhered to by the Communist organizations—so long as the principles so evolved were believed in and were advocated to be applied to the United States by those organizations during the period of the respondent's membership.

It is noteworthy that the witness, himself, wavered in his divergent position when confronted with specific citations from the Leninist writings in evidence and from the "Program" of the Communist International. He acknowledged that both of the foregoing authorities considered the Soviet system to be a form of the Dictatorship of the Proletariat (R. 534). He equivocated when questioned with respect to Lenin's declaration that a "Marxist" necessarily

had to accept the concept of the "Dictatorship of the Proletariat" or remain bourgeois in thought. (He was confronted with part of the following postulation of Lenin: "A Marxist is one who EXTENDS the acceptance of the class struggle to the acceptance of the DICTATORSHIP OF THE PROLETARIAT. Herein lies the deepest difference between a Marxist and an ordinary petty or big bourgeois" (p. 30 of Ex. 20) (R. 536 and 537)). It is observed that the witness even went so far as to volunteer the statement that the Leninist dictum as to the nature of the bourgeois State is borne out by the present composition of the United States Government, which he said is a merger of a Wall Street financial oligarchy, and a military bureaucracy (R. 525).

It is the general conclusion of the Presiding Inspector with respect to the testimony of the witness, Schneiderman, that when pressed, he came a long way from his initially variant position in conceding that Lenin's writings in evidence and the "Program" of the Communist International set down basic "Marxist-Leninist" precepts on the nature of the State, bourgeois governments *and the "Dictatorship of the Proletariat"* (R. 510 to 555 incl.).

As aforementioned, it appears necessary, in view of the Supreme Court's acceptance of the witness' claim that "Leninism" and the Communists in general held a very loose concept of the "Dictatorship of the Proletariat", to examine in detail Lenin's and Stalin's exact exposition of the concept in their writings in evidence. (In this connection it is noted that at the point where a 1934 Resolution of the Communist Party of the U. S. A. was quoted to the witness, Schneiderman, as advancing slogans of "Soviet Power" and "winning the majority of the American working class for the revolution, for achieving a Soviet America", the witness flatly asserted that the term "Soviet Power" was used "very loosely to apply to *any* situation in which the workers would come into office or power" (R. 426, 427 and 435 to 438 incl.)).

It therefore becomes a matter of importance to delineate in this Opinion the structure of this Soviet form of the "Dictatorship of the Proletariat" that, Lenin and Stalin espouse, is to be forcibly substituted for all existing bourgeois states. Stalin gives a brief, general exposition of its composition in the section of "Foundations of Lenin-

ism", which is headed "The Soviet Power as the State Form of the Dictatorship of the Proletariat". His short dissertion there is as follows (pp. 57 to 60 incl. of Ex. 22):

> "The *victory* of the dictatorship of the proletariat *signifies* the suppression of the bourgeoisie, the *smashing of the bourgeois state machine*, and the *substitution* of proletarian democracy for bourgeois democracy. That is clear. But by means of what organizations can this colossal task be carried out? What * * * are the *new* forms of organization of the proletariat that are capable of serving as the *grave diggers of the bourgeois state machine, that are capable not only of smashing the machine, not only of substituting proletarian democracy for bourgeois democracy*, but also of becoming the foundation of the proletarian state power?
>
> "This new form of organization is the Soviets.
>
> "Wherein lies the strength of the Soviets as compared with the old forms of organization?
>
> "In that the Soviets are the most ALL-EMBRACING mass organization of the proletariat, for they and they alone embrace all workers without exception.
>
> "In that the Soviets are the ONLY mass organizations which embrace all the oppressed and exploited, workers and peasants, *soldiers and sailors*, and in which the vanguard of the masses, the proletariat, can, for this reason most easily and most completely exercise *its political leadership of the mass* struggle.
>
> "In that the Soviets are the MOST POWERFUL ORGANS of the revolutionary struggle of the masses, *of the political actions of the masses, of the insurrection of the masses*—organs capable of breaking the omnipotence of finance capital and of its *political appendages*. * * *[31]
>
> * * *
>
> "The Soviet power is the amalgamation and formation of the local Soviets into one common state organization, into *the state organization of the proletariat* as the vanguard of the oppressed and exploited masses and as the ruling class—their amalgamation into the republic of Soviets.
>
> * * *

30. Recalling the postulated steps to political power: economic strikes—political strikes—insurrection.

31. i.e, the bourgeois parliament and bureaucracy.

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"The Soviet power, by combining the legislative and executive functions in a single state body, and replacing territorial electoral constituencies by industrial units, factories and mills, thereby directly links the workers and the labouring masses in general with the apparatus of state administration, teaches them how to administer the country.

"The Soviet power *alone* is capable of releasing the *army* from its *subordination* to *bourgois* command and of converting it from the *instrument of the oppression of the people,* which it is under the bourgeois order, into an instrument for the liberation of the people from the yoke of the bourgeoisie, both native and foreign.

"The republic of Soviets is thus the *political form,* so long sought and finally discovered, within the framework of which the economic emancipation of the proletariat, the complete victory of socialism, is to be accomplished.

"The Paris Commune was the embryo of this form; *the Soviet power is its development and culmination.*" (Inspector's Note: Italics supplied; capitals represent italics in the original.)

The foregoing general description pictures the "Soviet Power" as a centralized state organization of the local Soviets. It is to be observed that Stalin terms it "The republic of Soviets" and states that the local Soviets combine both legislative and executive functions. It is further to be noted that these local Soviet organizations, embracing the workers, the peasants, the soldiers and the sailors under the leadership of the proletariat, are stipulated by Stalin to be the "organs of the revolutionary struggles of the masses, of the political actions of the masses, of the insurrection of the masses", which carry out the tasks of suppressing the bourgeoisie, smashing the bourgeois state machine and substituting "proletarian democracy for bourgeois democracy".

The foregoing distingnishment by Stalin between proletarian and bourgeois "democracy" requires elucidation, as does the Leninist coupling of the term "democracy" with the apparently contradictory term "dictatorship" in the proletarian state. Lenin and Stalin reveal in their

writings that from the Leninist ideological point of view, this joinder of "democracy" with the "Dictatorship of the Proletariat" is really consistent.

In "State and Revolution" Lenin makes this clear by explicating the teachings of Marx and Engels as to the general nature of the proletarian state machinery which is to replace the overthrown, shattered state machinery of the bourgeoisie. Referring to the lessons Marx and Engels had drawn from study of the structure of the French Commune (the abortive proletarian state which came into being during the French Revolution, in 1871), Lenin sets forth (p. 36 of Ex. 20):

> "Without resorting to Utopias, Marx waited for the EXPERIENCE of a mass movement to produce the answer to the problem *as to the exact forms which this organization of the proletariat as the ruling class will assume* and as to the exact manner in which the organization will be combined with the most complete, most consistent 'establishment of democracy.'" (Inspector's Note: Italics supplied, capitals represent italics in orgininal.)

It is to be noted that here Lenin links the proletarian state with "the most complete, most consistent establishment of democracy". The consistency of the two apparently incompatible terms lies in the Leninist conception of "Democracy". Lenin defines the terms as follows: "Democracy" is a STATE recognizing the subordination of the minority to the majority, i.e., an organization for the systematic use of VIOLENCE by one class against another (p. 68 of Ex. 20).

Now this conception of "Democracy" is more limited than the commonly held (bourgeois) view of the term. But it is vital to understand that "Leninism's" definition of "Democracy" is narrower and more confined than the general definition of the term because this limited view of "Democracy" forms the rational basis for the Leninist approach to the problem of the proletarian "seizure of power" and the Communist espousal of "democracy" along with proletarian dictatorship. In "State and Revolution" Lenin gives the following comprehensive Leninist conception of bourgeois "Democracy" (pp. 82 and 83 of Ex. 20):

> "Democracy is a form of state—one of its varieties. Consequently, like every state, it consists in

> organized, systematic application of force against human beings. This is on the one hand. On the other hand, however, it signifies the *formal* recognition of the equality of all citizens, the equal right of all to determine the structure and administration of the state * * *" (Inspector's Note: Italics supplied.)

According to Lenin, these distinguishing features of bourgeois "Democracy" are in conflict with each other. He states that this *formal* recognition of the equal right of all citizens to determine the operational functioning of the State does not actually work out *in practice* to be equality for all, principally because the bourgeois state is the organ that enforces the interests of the dominant bourgeoisie. He explains that the *formal* "Democracy" of the bourgeois state is always bound by the narrow framework of capitalist exploitation, and the proletariat, the modern wage-slaves, (as well as the other classes oppressed by the bourgeoisie) are so much crushed by want and poverty, and are subjected to so many political and economic strictures, that they are *in actuality* deprived of that democratic equality which is formally theirs (p. 72 of Ex. 20).

Lenin postulates that the democratic feature of the "Dictatorship of the Proletariat" is that in the *practical* sense it is exactly the reverse of the "Democracy" that prevails in the bourgeois democratic state. For, he frankly asserts, the proletarian State abandons the "pretense" of *formal* equality which the bourgeois "democracy" professes to extend to all classes. Lenin openly acknowledges that under the Dictatorship of the Proletariat the bourgeoisie are not to be afforded *formal* equality—their lot is to be *open* suppression, rather than the covert suppression which is the lot of the proletariat in a bourgeois "democracy". This is necessary, Lenin explains, because the resistance of the bourgeoisie to the invasion of their rights and privileges (the principal one being the private ownership of the means of production) "must be broken by force" (p. 73 of Ex. 20).

Stalin, in "Foundations of Leninism" clearly expresses the same idea in the following passage (pp. 53 and 54 of Ex. 22):

> "The dictatorship of the proletariat cannot be 'complete' democracy, democracy for ALL, for the rich as well as for the poor; the dictatorship of the

> proletariat 'must be a state that is democratic IN A NEW WAY—FOR the proletarians and the propertyless in general—and dictatorial IN A NEW WAY—AGAINST the bourgeoisie * * *" (Lenin, Selected Works, Vol. VII, p. 34). * * * Talk * * * about universal equality, about 'pure' democracy, about 'perfect' democracy, and the like is but a bourgeois screen to conceal the indubitable fact that equality between exploited and exploiters is *impossible.* * * * Under capitalism there are no *real* 'liberties' for the exploited, nor can there be, if for no other reason than that the premises * * * etc., indispensable for the actual enjoyment of 'liberties' are the privilege of the exploiters. Under capitalism the exploited masses do not, nor can they, *really* participate in the administration of the country, if for no other reason than that, *even under the most democratic regime,* governments, under the conditions of capitalism, are not set up by the people but by the Rothschilds and Stinneses, the Rockefellers and Morgans. Democracy under capitalism is CAPITALIST democracy, the democracy of the exploiting minority, based on the restriction of the rights of the exxploited majority and directed against this majority * * *. Under the dictatorship of the proletariat, democracy is PROLETARIAN democracy, the democracy of the exploited majority, based on the restriction of the rights of the exploiting minority and directed against this minority." (Inspector's Note: Italics supplied; capitals represent italics in the original.)

Now, in order for the "Dictatorship of the Proletariat" to smash the "bourgeois state machine", and to suppress the former exploiting minority, it needs a special machinery of its own by means of which it can establish and preserve its rule. For, as Lenin points out in the following passage, the proletarian State needs force (p. 73 of Ex. 20):

> "Democracy for the vast majority of the people, and suppression by force, i.e., exclusion from democracy, of the exploiters and oppressors of the people—this is the modification of democracy during the TRANSITION from capitalism to Communism."

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(Inspector's Note: Capitals represent italics in the original.)

That the instrument of force in the proletarian state is the Soviets is revealed in the passage from Stalin's "Foundations of Leninism" quoted earlier. The same point is apparent in the following passage of Lenin's "State and Revolution" (p. 74 of Ex. 20):

> "* * * during the TRANSITION from capitalism to Communism, suppression is STILL necessary; but it is the suppression of the minority of exploiters by the majority of the exploited. A special apparatus, special machinery for suppression, the 'state' is STILL necessary, but this is now a transitional state, no longer a state in the usual sense, for the suppression of the minority of exploiters; by the majority of the wage slaves of YESTERDAY, is a matter comparatively so easy, simple and natural that it will cost far less bloodshed than the suppression of the risings of slaves, serfs or wage laborers, and will cost mankind far less. * * * The exploiters are, naturally, unable to suppress the people without a most complex machinery for performing this task; but THE PEOPLE can suppress the exploiters even with very simple "machinery", by the simple ORGANIZATION OF THE ARMED MASSES (*Such as the Soviets of Workers' and Soldiers' Deputies,* we may remark, anticipating a little." (Inspector's Note: Italics supplied; capitals represent italics in the original.)

It is parenthetically noted here in relation to this "organization of the armed masses" that Lenin states in "State and Revolution" at the point where he discusses Engels' teachings in relation to the "Public force" of the state, that if the irreconcilably antagonistic classes in Society were armed in a "self acting manner", they "would come into armed struggle with each other", and that Engels, in bringing up the question of the "public force", raises theoretically the very same question which every revolution raises practically, palpably, and on a mass scale of action, namely, the question of the relation between speciál bodies of armed men and the 'self acting armed organization of the population'" (p. 11 of Ex. 20). This

observation of Lenin has a significant bearing upon the role of the Soviets of Soldiers' Deputies in a revolutionary situation. In connection with the French Revolutions, Lenin quotes Engels' observation that the workers were armed after each revolution and that therefore the first commandment for the bourgeois at the helm of the state was to disarm the workers. Lenin then asserts: "the essence of the whole matter—also, by the way, *of the question of the state* (HAS THE OPPRESSED CLASS ARMS?)—is here remarkably well defined" (pp. 62 and 63 of Ex. 20).

Reverting to Lenin's assertion in the passage quoted earlier, that the "Democracy" of the bourgeois state signifies the *formal* recognition of the equality of the citizens but its negation *in practice*, Lenin continues his exposition as follows (p. 83 of Ex. 20):

> "* * * This, in turn, is connected with the fact that, *at a certain state* in the development of democracy, it first rallies the proletariat as a revolutionary class against capitalism, and gives it an opportunity to crush, to smash to bits, to wipe off the face of the earth *the bourgeois state machinery—even its republican variety: the standing army, the police, the bureaucracy;* then it *substitutes* for all this a MORE democratic, but still a *state machinery in the shape of armed masses of workers*, which becomes transformed into universal participation of the people in 'the militia.'" (Inspector's Note: Italics supplied; capitals represent italics in the original.)

It is manifest, then, that "Leninism" contemplates a clash between the armed Soviets, including the Soviets of Soldiers and Sailors (and today, Airmen), and the armed instrumentalities (or at least that portion of them which remains loyal to the bourgeoisie) of the bourgeois state at the outbreak of the revolution, and the transformation after the successful establishment of the proletarian state of these armed Soviets into a universal militia.

It is further evident that according to the Leninist view, bourgeois "Democracy", by preaching "formal" equality but providing actual inequality and by allowing freedom of speech and organization (within limits), provides the proletariat with the opportunity to rally the masses behind a slogan demanding *real* "democratic" equality for all

the oppressed classes and to overthrow the bourgeois "Democracy" forcibly when the postulated "certain stage" for revolutionary action is reached. Thus, Lenin states that the bourgeois democratic republic "is the nearest approach to the dictatorship of the proletariat"—for such a republic—"without in the least setting aside the domination of capital, and, therefore, the oppression of the masses and the class struggle—inevitably leads to such an extension, development, unfolding and sharpening of that struggle that, *as soon as the possibility arises for satisfying the fundamental interests of the oppressed masses,* this possibility is realized inevitably and *solely* in the dictatorship of the proletariat, in the guidance of these masses by the proletariat" (p. 59 of Ex. 20).

Now, Lenin defines the "Dictatorship of the Proletariat" as "the POLITICAL rule of the proletariat, *i.e.,* of a power shared with none and relying directly upon the armed force of the masses" (p. 23 of Ex. 20). Stalin quotes Lenin to the effect that this political rule is the rule of a single class, the proletariat, that "takes political power into its own hands" (p. 22 of Ex. 23). It is obvious then, that the "Dictatorship of the Proletariat" is the rule not of a single dictator, but the rule of a single *class,* the Proletariat. Moreover, "Leninism" basically postulates that the Communist Party is the vanguard, the leader, and guide for the emancipation of the proletariat (pp. 23 and 24 of Ex. 20; p. 31 of Ex. 23). The manner in which this leadership works out in practice under the Soviet system is clearly revealed in Lenin's and Stalin's writings in evidence. But before considering exactly how the Communist Party exercises its leadership of the proletarian dictatorship, it is illuminating first to consider Lenin's elucidation of the manner in which the proletarian dictatorship avoids the evils of bourgeois parliamentarism, and yet organizes the political and economic life of the State.

In "State and Revolution", Lenin explains that the new "class rule" of the proletariat is to be combined with "the most complete, most consistent 'establishment of democracy'" (in the practical sense) (p. 36 of Ex. 20). He quotes from Marx's disquisition upon the French Revolution to the effect that the French "Commune" State "was formed of municipal councilors, chosen by universal suffrage in various wards of the town, responsible and revocable at short terms. The majority of its members were naturally

working men or acknowledged representatives of the working class * * * Instead of continuing to be the agent of the Central Government, the police was at once stripped of its political attributes, and turned into the responsible and at all times revocable agent of the Commune. So were the officials of all other branches of the administration. From the members of the Commune downwards, the public service had to be done at WORKMEN'S WAGES. The vested interests and the representation allowances of the high dignitaries of State disappeared along with the high dignitaries themselves * * * Having once got rid of the standing army and the police, the physical force elements of the old government, the Commune was anxious to break the spiritual force of repression, the 'parson power' * * * The judicial functionaries were to be divested of (their) sham independence * * * Like the rest of public servants, magistrates and judges were to be elective, responsible and revocable" (pp. 36 and 37 of Ex. 20).

Lenin then expands this analysis of the composition of the "Commune" and applies it to the structure of the proletarian dictatorship, in general. He strongly emphasizes "the abolition of all representation allowances, and of all money privileges in the case of officials, the reduction of the remuneration of ALL servants of the state to 'WORKINGMEN'S WAGES'" (pp. 37 and 38 of Ex. 20). He points out that the capitalist development of Society has created large scale production and organization of the elements of business on a simplified basis. He postulates that the management, production, and distribution functions in the life of Society have been so broken down into a systematic routine so far as the individual worker is concerned that "the great majority of functions of the old 'state power' have become so simplified and can be reduced to such simple operations of registration, filing, and checking that they will be quite within the reach of every literate person, and it will be possible to perform them for 'workingmen's wages' * * *" (p. 38 of Ex. 20).

Lenin sets forth that these measures of having all government officials, without exception, elected and subject to recall at any time and of having their salaries reduced to "workingmen's wages" refer to the State, "to the purely political reconstruction of society". However, he stresses, these changes acquire their full meaning only in connection with the expropriation of the means of production,

of the turning of captalist private ownership of these means into social ownership. Thus, not only the state officials will be paid "workingmen's wages" by the State, but workers in all industry will likewise be paid "workingmen's wages" by the State (pp. 38 and 39 of Ex. 20).

So, then, Lenin explains, the teaching of Marx, based on the study of the Commune, is that under the proletarian State, representative institutions are not to be abolished, but are to be changed into working bodies, rather than "talking shops", as are the parliamentary bodies in bourgeois states. Lenin declares: "Take any parliamentary country, from America to Switzerland, from France to England, Norway, and so forth—the actual work of the 'state' there is done behind the scenes and is carried out by the departments, the offices and the staffs. Parliament itself is given up to talk for the special purpose of fooling the 'common people'" (p. 40 of Ex. 20).

Lenin further asserts (p. 41 of Ex. 20):

> "The venal and rotten parliamentarism of bourgeois society is replaced in the Commune by institutions in which freedom of opinion and discussion does not degenerate into deception, for the parliamentarians must themselves work, must themselves execute their own laws, must themselves verify their results in actual life, must themselves be directly responsible to their electorate. Representative institutions remain, but parliamentarism as a special system, as a division of labour between the legislative and executive functions, as a privileged position for the deputies, NO LONGER EXISTS." (Inspector's Note: Capitals represent italics in the original.)

Lenin then shows how the economic life of the Society is to be reorganized, along with the reorganization of the representative executive and legislative institutions of the State. He explains (p. 42 of Ex. 20):

> "Capitalism simplifies the functions of 'state' administration; it makes it possible to throw off 'commanding' methods and to reduce everything to a matter of the organization of the proletarians (as the ruling class), hiring 'workmen and managers' in the name of the whole of Society. * * *

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"* * * we want the Socialist revolution with human nature as it is now, with human nature that cannot do without subordination, control, and 'managers'.

"But if there be subordination, it must be *to the armed vanguard of all the exploited and the labouring—to the proletariat.* The specific 'commanding' methods of the state officials can and must begin to be replaced—immediately, *within twenty-four hours*—by the simple functions of 'managers' and bookkeepers, functions which are now already within the capacity of the average city dweller and can well be performed for 'workingmen's wages'.

"We organize large-scale production, starting from what capitalism has already created; we workers OURSELVES, relying on our own experience as workers, establishing a strict, an iron discipline, *supported by the state power of the armed workers*, shall reduce the role of state officials to that of simply carrying out our instructions as responsible, moderately paid 'managers' (of course, with technical skill of all sorts, types, and degrees). This is OUR proletarian task, with this we can and must BEGIN when carrying through a proletarian revolution * * *". (Inspector's Note: Italics supplied; capitals represent italics in the original.)

Lenin emphasizes the importance of the concepts set forth in the foregoing quoted passages by pointing out that imperialism is transforming all trusts, all capitalist enterprises, into organizations of a similar type to the postoffice, which, he says, is a prime example of a *state capitalist monopoly*. When the revolution comes, all of these trustified industries are to become state monopolies like the postoffice. Lenin asserts that all the necessary mechanisms for socialist management in Society (Inspector's Note: especially so in an advanced capitalist country, such as the United States) are already at hand. Then, Lenin expresses the essence of his teaching on the economic and political proletarian reorganization of Society in the following trenchant passage (p. 43 of Ex. 20):

"Overthrow the capitalists, crush with the iron hand of the *armed workers* the resistance of these

exploiters, *break* the *bureaucratic* machine of the modern state—and you have before you a mechanism of the highest technical equipment, freed of 'parasites', capable of being set into motion by the united workers themselves who hire their own technicians, managers, bookkeepers, and pay them ALL, as indeed, every 'state' official, with the usual workers' wage . . .

"To organize the WHOLE national economy like the postal system, in such a way that the technicians, managers, bookkeepers, as well as ALL officials, should receive no higher wages than 'workingmen's wages', all under the control and leadership of the *armed proletariat*—this is our immediate aim. This is the *kind of state* and economic basis we need. This is what will produce the destruction of parliamentarism, while retaining representative institutions. This is what will free the labouring classes from the prostitution of these institutions by the bourgeoisie." (Inspector's Note: Italics supplied; capitals represent italics in the original.)

At this point in "State and Revolution" Lenin elucidates from Marx's discussion of the "Commune", that the French Commune had no time (it didn't last long enough) to develop a national organization. (From Lenin's discourse it is evident that the Commune was a Parisian municipal organization). However, Lenin points out in this connection that the Commune was to have been the prototype for the political organization of all communities in the State, even the smallest hamlet, and from these municipal communes a "National Delegation" (or Congress) was to have been elected. Lenin quotes Marx as stating that the few, but important, functions which were to remain in the proletarian state for a central government to perform, were to be done by this responsible central institution, (or Congress). Lenin then discusses Marx's polemics with other political theorists, and points out that Marx, in his theoretical conception of the State was a "Centralist", in that he believed in centralizing the authority of the State. Lenin states that Marx therefore, was opposed to "Federalism", (which is a political system, wherein state authority is diffused among the component federated segments of the State).

Lenin, making his conclusion in the form of a rhetorical question, asserts that it is the most consistent proletarian democratic centralism" * * * if the proletariat and poorest peasantry take the power of the state into their own hands, organize themselves freely into communes, and UNITE the action of all the communes in striking at capital, in crushing the resistance of the capitalists, in the transfer of private property in railways, factories, land, and so forth, to the ENTIRE nation, to the whole of society * * *" (p. 46 of Ex. 20).

Lenin points out that Engels, like Marx, insists on democratic centralism, on one indivisible republic. The federal republic he considers either as an exception and a hindrance to development, or as a transitional form from a monarchy to a centralized republic, as a 'step forward' under certain special conditions" (p. 60 of Ex. 20). Lenin explains that a special condition where a Federal republic would serve as an intermediate form, is in a situation where clashing national differences between the federalized segments cannot be immediately reconciled. However, he asserts, the Communist objective must always be for "a united and centralized democratic republic". He significantly states in this connection (p. 61 of Ex. 20):

> "But Engels by no means understands democratic centralism in the bureaucratic sense in which this term is used by bourgeois and petty-bourgeois ideologists, including Anarchists. Centralism does not, with Engels, in the least exclude such wide local self-government which combines a voluntary defence of the unity of the state by the 'communes' and districts with the complete abolition of all bureaucracy and all 'commanding' from above."

Now, adverting again to the passage from Stalin's "Foundations of Leninism" relating to the structure of the "Dictatorship of the Proletariat", which was quoted earlier, it is to be observed that he exactly follows Lenin's foregoing outline of the political structure of the proletarian dictatorship. For, he states that "The Soviet power is the amalgamation and formation of the local Soviets into one common state organization * * * the republic of Soviets" and that "The Soviet power, by combining the legislative and executive functions in a single state body

• • • directly links the workers and labouring masses in general with the apparatus of state administration • • •" (pp. 59 and 60 of Ex. 22).

It is clear then, that effectuation in the United States of the Leninist teachings in relation to the proletariat State necessarily would involve the end of the present Federal system of states, and the substitution, in its stead, through the revolution, of government by the local revolutionary assemblages, the Soviets, the membership of which would be chosen principally from the workers, and the poorer farming class, and which would exercise necessary local legislative and executive authority. These local assemblages would administer the economic as well as the political life of the community, appointing the local judiciary (subject to recall at the will of the assemblage) and designating the "managers" of the local socialized industry, etc. These assemblages would, in turn, choose representatives to the national revolutionary body, whose functions, though limited, would be centralized, and whose national power would be plenary.[32]

Turning to consideration of exactly how, according to the Leninist teachings, the Communist Party exercises its leadership of the "Dictatorship of the Proletariat" in Soviet form, it is to be noted that in "State and Revolutions", Lenin asserts that "the proletariat needs state power, the *centralized* organization of force, the organization of violence, both for the purpose of crushing the resistance of the exploiters and for the purpose of GUIDING the great mass of the population—the peasantry, the petty-bourgeoisie, the semi-proletarians" (p. 23 of Ex. 20). It is clear from this that in Lenin's view, at the time of the inception of the "Dictatorship of the Proletariat", the proletariat exercising political rule is a *minority* class in Society, and that the dictatorship is centrally organized for the aforestated two purposes. Lenin explains that "by

32. The inaccuracy of the observation in the Supreme Court decision in the case of Schneiderman v. U. S., supra, with respect to the "Dictatorship of the Proletariat" not necessarily involving the end of our Federal system is apparent: also the statement (R. 537) of the witness, Schneiderman, who professed to be attached to the Marxist-Leninist principles, that he had no "crystal ball" with which to divine the shape of the proletarian state the Communists intend to have set up in the United States, must be considered to be of doubtful veracity, to say the least in view of the fact that the pronouncements of the Party in evidence show emphasis upon the establishment of a Soviet system in the United States.

educating a workers' party, Marxism educates the vanguard of the proletariat, capable of assuming power and of LEADING THE WHOLE PEOPLE to Socialism, of directing the new order * * *." (pp. 23 and 24 of Ex. 20)

The manner in which this direction or leadership of the proletarian state by the Communist Party is effectuated, and the relationship between the Party and the proletarian class, as well as between the class and the masses, is detailed by Lenin in "'Left Wing' Communism, An Infantile Disorder", in his elucidation of the "left wing" errors of the German Communists. Lenin criticizes the German "Left" Communists for arguing for a "dictatorship of the party" which is to do the leading, and a "dictatorship of the masses" through which the masses are to do the following (p. 25 of Ex. 21). He reviews, in his dissertation upon this error, the Marxist postulation regarding the existence of classes in Society, and points out (pp. 26 and 27 of Ex. 21):

> "Everyone knows that the masses are divided into classes; * * * that usually, and in the majority of cases, at least in our modern civilized countries, classes are led by political parties; that political parties, as a general rule, are directed by more or less stable groups composed of the most authoritative, influential and experienced members, who are elected to the most responsible positions and are called leaders. All this is elementary. All this is clear * * *.
>
> "To go so far in this connection as to draw a contrast in general between the dictatorship of the masses and the dictatorship of the leaders is absurd and stupid * * *"

The sense of the teaching that Lenin goes on to make clear here is that the proletarian class is led by the Communist Party, which, in turn, is directed by its leaders, but that the leadership and the Party must be part and parcel of the proletariat, and their interests must not be separate or apart from the interests of the proletariat. Lenin points out that any separation of interests results only in weakening the discipline of the Party, which is very harmful because "the strictest centralization and discipline are required within the political party of the proletariat * * *

in order that the ORGANIZATIONAL role of the proletariat (and that is its principal role) may be exercised correctly, successfully, victoriously" (pp. 28 and 29 of Ex. 21). (The organizational role referred to here is the organization of the masses for the "seizure of power", and the preservation of that power after it has been attained.)

Then, in connection with the stand of the German "Left" Communists against participating in "reactionary" trade unions (within the bourgeois state), Lenin clearly exposes the mistake in taking such a position, and also plainly outlines how the Soviet system connects the leaders—party—class—masses in the following passage (pp. 31 and 32 of Ex. 21):

> "But however strongly the German 'Lefts' may be convinced of the revolutionariness of such tactics (Inspector's Note: flat refusal to work in what they termed yellow, social-chauvinist, compromising, counter-revolutionary trade unions), these tactics are in fact fundamentally wrong, and consist of nothing but empty phrase-mongering.
>
> "In order to make this clear, I shall begin with our own experience (Inspector's Note: of the U. S. S. R.) in conformity with the general plan of the present article, *the object of which is to apply to Western Europe*[33] *whatever is of general application, general validity, and generally binding forces in the history and the present tactics of Bolshevism.*
>
> "The correlation, leaders—party—class—masses, as well as the relation of the dictatorship of the proletariat and its party to the trade unions, now present themselves concretely in Russia in the following form: the dictatorship is exercised by the proletariat, organized in the Soviets; the proletariat is led by the Communist Party (Bolsheviks), which, according to the data of the last Party Congress (April 1920) has a membership of 611,000[34] * * *. The Party, which holds annual congresses (the last on the

33. The whole of "'Left Wing' Communism, An Infantile Disorder" makes it clear that by "Western Europe" Lenin means all of the bourgeois countries on the European continent, Great Britain, and the United States, and all other capitalistically developed countries.

34. In view of the many millions of people in Russia it is obvious that in 1920, the Communist Party was very definitely a small minority of the population.

basis of one delegate for each 1000 members) is directed by a Central Committee of nineteen elected at the Congress, while the current work in Moscow has to be carried on by still smaller bodies, viz. the so-called 'Orgburo' (Organization Bureau) and 'Politburo' (Political Bureau), which are elected at plenary meetings of the Central Committee, five members of the Central Committee to each bureau. This, then, looks like a real 'oligarchy'. Not a *single important political or organizational question is decided by any state institution in our republic, without the guiding instructions of the Central Committee of the Party.*

"In its work, the Party relies directly on the TRADE UNIONS * * * which are formally NON-PARTY. *Actually, all the directing bodies of the vast majority of the unions, and primarily, of course of the all-Russian general trade union* centre or bureau (the All-Russian Central Trade Union Council) consist of Communists and *carry out all the instructions of the Party.* Thus, on the whole, we have a formally non-Communist, flexible and relatively wide and very powerful proletarian apparatus, by means of which the Party is closely linked up with the CLASS and with the MASSES, and by means of which, under the leadership of the Party, the DICTATORSHIP OF THE CLASS is effected. Without close contact with the trade unions, without their hearty support and self-sacrificing work, not only in economic BUT ALSO IN MILITARY affairs, it would, of course, have been impossible for us to govern the country and to maintain the dictatorship for two months, let alone two years.

"Then, of course, all the work of the Party is carried on through the Soviets, *which embrace the toiling masses* irrespective of occupation. The * * * (county) * * * congresses of Soviets are DEMOCRATIC institutions the like of which even the best of the democratic republics of the bourgeois world has never known; and through these congresses (whose proceedings the Party endeavors to follow with the closest attention) as well as by constantly appointing class-conscious workers to all sorts of posts in the rural districts, the role of the prole-

tariat as leader of the peasantry is exercised, the dictatorship of the urban proletariat is realized, and a systematic struggle against the rich, bourgeois, exploiting, and profiteering peasantry is waged.

"Such is the general mechanism of *the proletarian state power* viewed 'from above', *from the standpoint of the practical realization of the dictatorship.* It is to be hoped that the reader will understand why * * * all talk * * * about the dictatorship of leaders OR the dictatorship of the masses, etc., cannot but appear to be ridiculous and childish nonsense, something like discussing whether the left leg or the right arm is more useful to a man." (Inspector's Note: Italics supplied; capitals represent italics in the original.)

(In view of the foregoing exposition of the exact form of the Soviet system in operation, it cannot be said that the Soviet form of the proletarian State is a vague concept.)

Stalin, in "Problems of Leninism" amplifies how the Soviet System works out in practice. He points out that under the Soviet system "not a single important decision is arrived at by the mass organizations of the proletariat without directions from the Party * * *. The dictatorship of the proletariat consists of the directions given by the Party plus the carrying out of these directions by the mass organizations of the proletariat, plus their fulfillment by the general population" (pp. 36 and 37 of Ex. 23). Stalin clearly reveals the structure of the Soviet system in his elucidations with respect to the "belts" and "levers" through which the Party guides the "Dictatorship of the Proletariat". Stalin's clear explication of this "totality" "which comprises 'the system of the dictatorship of the proletariat' " is as follows (pp. 29 to 34 incl. of Ex. 23):

"What are these 'belts' or 'levers' in the system of the dictatorship of the proletariat? What is the 'directing force'? Why are they needed?

"The levers or belts are those very mass organizations of the proletariat without whose aid the dictatorship cannot be realized.

"The directing force is the advanced detachment of the proletariat, its vanguard (Inspector's Note: the Communist Party), which constitutes the main guiding force of the dictatorship of the proletariat.

"The proletariat needs these belts, these levers and this directing force because without them it would be, in its struggle for victory, like a weaponless army in the face of organized and armed capital. It needs these organizations because without them it would suffer inevitable defeat in its fight for the overthrow of the bourgeoisie, for the consolidation of its own power and for the building of socialism. The systematic help of these organizations and the directing force of the vanguard are indispensable, because without them the dictatorship of the proletariat could not be to any extent durable and firm.

"What are these organizations?

"FIRST of all there are the workers' TRADE UNIONS, with their national and local ramifications * * *. These unite the workers of all trades. They are not Party organizations * * *. They united the masses of the workers with their vanguard.

"SECONDLY, we have the SOVIETS and their numerous central and local ramifications in the shape of administrative, business, *military*, cultural and other state organizations * * *. The soviets are mass organizations of all the toilers of town and country. They are not Party organizations. The soviets are the direct expression of the dictatorship of the proletariat. All and sundry measures for the strengthening of the dictatorship, and for building of socialism are carried out through the soviets * * *. The soviets unite the vast toiling masses with the proletarian vanguard.

"THIRDLY, we have CO-OPERATIVE societies of all kinds, with all their ramifications. These are mass organizations of toilers, not Party organizations, in which the toilers are united, primarily as consumers, but also in the course of time as producers (agricultural co-operation) * * *.

"FOURTHLY, there is the YOUNG COMMUNIST LEAGUE. This is a mass organization of the young workers and peasants, and not a Party organization, but in close touch with the Party. Its task is to

help the Party educate the younger generation in the spirit of socialism. . . .

"LASTLY, there is the PARTY of the proletariat, its vanguard. The Party's strength lies in the fact that it draws into its ranks all the best elements of the proletariat from all the mass organizations of the proletariat. Its function is to COMBINE the work of all the mass organizations of the proletariat, without exception, and to GUIDE their activities towards a single goal, that of emancipation of the proletariat. And it is absolutely essential to unite and guide them towards one goal, for otherwise the unity of the struggle of the proletariat and the leadership of the proletarian masses in their *fight for power* and for the building of socialism is impossible. Only the vanguard of the proletariat, its Party, is capable of combining and directing the work of the mass organizations of the proletariat. Only the Party of the proletariat, only the Party of the Communists, is capable of fulfilling this role of chief leader in the system of the dictatorship of the proletariat."

* * *

"Without the Party as the main leading force, a dictatorship of the proletariat at all durable and firm is impossible. . . .

". . . The Party realizes the dictatorship of the proletariat. It does so, however, not directly, but with the help of the trade unions and through the soviets and their ramifications. . . .

* * *

"Here in the Soviet Union, in the land of the dictatorship of the proletariat, the fact that not a single important political or organizational question is decided by our Soviet and other mass organizations without directions from the Party must be regarded as the highest expression of the leading role of the Party. . . ." (Inspector's Note: Italics supplied; capitals represent italics in the original.)

It is therefore very clear how the Soviet form of the Dictatorship of the Proletariat works in practice and what

the Communists mean when they advocate the establishment of "Soviet Power". The foregoing establishes that the Communist Party controls and directs the entire Soviet organization before, during, and after the insurrection until the final transitional step is taken towards the classless society, all the time, theoretically, exercising its control wholly to serve the interests of the proletariat and the masses.

The clear philosophic and practical teachings of Lenin and Stalin which have been reviewed illuminate all of the pronouncements in evidence of the Communist International and of the Communist Party of the U. S. A. Their elucidations reveal the full import of the dedication of the Communist International, the Communist Party of the U. S. A., and of the respondent to the "Marxist-Leninist" ideology, and to its practical realization in the United States.

Examined anew with the fundamental Marxist-Leninist ideological precepts in mind, the "Program" of the Communist International (Ex. 5) assumes even greater significance and meaning in relation to the central issue than it did when it was analysed in the original Opinion.

It has been observed that Marxism-Leninism postulates that the entire world-wide system of imperialist economy is already ripe for revolution—proletarian revolutions in the advanced capitalist (imperialist) countries, and colonial revolts in the colonies and the other countries in economic vassalage to these imperialist nations. It is a further precept of the ideology that the victorious proletariat in Russia must do the utmost possible for the "development, support and awakening of the revolution *in all countries*" (p. 46 of Ex. 22). This world outlook, it has been noted, is expounded as being the Leninist *international* perspective by Stalin in "Foundations of Leninism", which was written in 1924. Within four years thereafter, the Communist International, in 1928, adopted its "Program" and "Constitution". The direct connection between all of the Marxist-Leninist teachings (especially the international aspects of the ideology) and the "Program" and "Constitution" of the Communist International is established by analysis of these latter documents, which shows that they conform to, and augment, in all particulars, the historical, theoretical, and tactical teachings of Leninism. The parallel between the "Program" and all of the Leninist "revolutionary Marxist"

doctrines is remarkable, not merely in the fact that the "Program" follows the Leninist teachings exactly, but also in the fact that the "Program" constitutes a codification of the Leninist precepts in the form of a world-wide program adopted by the international Communist organization. There can be no doubt, then, that the international Communist organization posited its "Program" for intended implementation of the Leninist principles in *all* countries.

The introduction to the "Program" clearly terms its contents an international "uniform and common program for all Sections of the Communist International"; based "in its theoretical and practical work upon the ground of revolutionary Marxism and its further development, Leninism . . ." (pp. 9 and 10 of Ex. 5). The very nature of the strategy and tactics the "Program" advocates for use in all countries by *each* Communist Party to achieve the strategic objective is convincing evidence that the respondent, his witness, Schneiderman, and the Memorandum of Counsel, are misrepresenting the situation in claiming that the Communists in the United States select only the non-revolutionary aspects of the Marxist-Leninist ideology for application to the United States. As is readily apparent, the Leninist condemnation of "bourgeois democracy" applies squarely to the United States. Both the respondent and the witness, Schneiderman, have, in effect admitted this to be the case. Yet, they maintain inconsistently that the course of action which the ideology prescribes as necessary under such circumstances, has not been deemed applicable to the United States by the United States Communist.

The "Program" describes the organized capitalist state as the instrument for the suppression of the proletariat, and as the political expression of the economic domination of the bourgeoisie (p. 11 of Ex. 5). This definition succinctly iterates the Leninist postulation as to the nature of the bourgeois state. The "Program's" review of world history and of the rise of the world-wide forces of imperialism and of the international forces of revolution, is a restatement of the Leninist historical dialectical materialism. As noted in the original Opinion (O 11 and 12), the "Program" asserts, in relation to its presentation of the inherent contradictions of capitalism, that "two main revolutionary forces are organizing against the organized

might of finance capital; on the one hand, The Workers In The Capitalist States, on the other, the victims of the oppression of foreign capital, The Masses Of The People In The Colonies, marching under the leadership and hegemony of the international revolutionary proletarian movement" (pp. 16 and 17 of Ex. 5). This assertion echoes Stalin's above-reviewed Leninist statement, which is to the same effect.

In discussing the historical relationship of World War I to the revolutionary crisis in the world that followed it, the "Program" states that that war led inevitably to the intensification of the class struggle, which grew into open revolutionary mass action and civil war (p. 20 of Ex. 5). The "Program" then makes the interesting observation, already perceived in Stalin's dissertation on Leninism, that in this revolutionary process, "the unity of world economy found expression in the international character of the revolution, while the *uneven* development of its separate parts was expressed in the absence of simultaneity in the outbreak of revolution in the different countries" p. 21 of Ex. 5). Another passage relevant to the same point is (p. 29 of Ex. 5):

> "Thus, the system of world imperialism . . . is being corroded from various causes: by the antagonisms and conflicts between the imperialist states; by the rising of the vast masses in the colonial countries; by the action of the revolutionary proletariat in the imperialist home countries; finally, by the leading force in the world revolutionary movement—the proletarian dictatorship in the U.S.S.R. The international revolution is developing."

Then, in relation to the transition period, during which it is postulated in the "Program" the proletariat is to conquer state power in all bourgeois states in the world, the "Program" sets forth that during this interim period (which comprehends all of the period of respondent's membership and extends to the present) socialist revolutions are maturing, i.e. *proletarian civil wars against* the bourgeoisie; also national wars and colonial rebellions, which although not in themselves revolutionary actions of the proletariat, are nevertheless, constituent parts of the *world proletarian revolution, to the extent that they weaken the*

domination of imperialism. The "Program" then declares that "uneven economic and political development is an absolute law of capitalism" and, hence, "it follows that the international proletarian revolution cannot be conceived as a single event occurring simultaneously all over the world; at first socialism may be victorious in a few, or even in one single capitalist country. Every such proletarian victory, however, broadens the basis of the *world* revolution . . ." (pp. 34 and 35 of Ex. 5).

Now, this idea of the unevenness of the development of the world proletarian revolution was stated by Stalin in "Foundations of Leninism" in this way: the theory of Leninism bases its strategy and tactics on the proposition that in view of the uneven and spasmodic capitalist development of the various capitalist countries under the conditions of imperialism, it is not only possible, but also necessary, for the proletariat to achieve victory in individual countries in the world. (p. 44 of Ex. 22). In that same treatise Stalin also advanced the Leninist thesis that with the growth of revolutionary movements in *all* countries (the proletariat in the advanced capitalist countries and the native oppressed peoples in the colonies and dependent countries), the occurrence of a bourgeois-democratic revolution, or a national liberation revolt, in a backward country can be developed by proletarian leadership into a proletarian revolution (pp. 38 and 39 of Ex. 22). Stalin there restates what he says is Lenin's idea "of the bourgeois-democratic revolution passing into the proletarian revolution, of utilizing the bourgeois revolution for the 'immediate' transition to the proletarian revolution" (p. 44 of Ex. 22).

Thus the Leninist world perspective envisions the development in the "handful" of advanced capitalist countries (which category obviously includes the United States) of proletarian revolutions proceeding directly from the existing capitalist status quo. For, the Leninist theory makes clear, in these countries, capital (the means of production) has been so monopolistically organized in trusts or cartels that the socialization of production, distribution, etc.—all the many activities of the economic life of the country—can be accomplished immediately upon the successful establishment of the "Dictatorship of the Proletariat" in these countries. As Lenin puts it, this change-over can be effected in such countries within "twenty-four

hours" of the seizure of power. Moreover, it is the Leninist teaching that the trustification of industry in these countries has already developed to the point where the great mass of the workers are wage-laboring proletarians, and these workers constitute a very large proportion of the population.

But, the Leninist theory points out, in other capitalist countries, capitalism has not yet been highly developed. Many of these other countries have not yet evolved from semi-feudal conditions of production, and have not yet progressed politically to a bourgeois democratic state form. In these less developed capitalist countries, the Leninist forecast predicts a more involved transition from the present state of things to the proletarian State. In still another category of countries, the colonial or semi-colonial countries which have only the rudiments of capitalist developed industry, the Leninist augury foresees the transition to the proletarian dictatorship through a different transition process than called for by the more highly organized conditions in capitalistically developed countries. In the very backward countries, where capitalist development is virtually non-existent, the Leninist outlook presages yet another mode of development towards the Dictatorship of the Proletariat. This is the Leninist world view and the import of the section in the "Program" which concerns "the Struggle for the World Dictatorship of the Proletariat and the Principal Types of Revolutions" (pp. 54 to 59 incl. of Ex. 5).

This part of the "Program" sets forth that the *world* dictatorship of the proletariat will come about as the final result of the series of revolutions which it predicts will vary in nature and in point of time of occurrence among the various capitalist countries. The "Program" postulates four different categories of revolution which correspond to the classification in the "Program", according to type of capitalist development, of all non-socialist countries existing in the world. These categories are: "purely proletarian revolutions; revolutions of a bourgeois-democratic type which grow into proletarian revolutions; wars for national liberation; colonial revolutions (p. 54 of Ex. 5). The "Program" explains that the historical condition of the various countries in the world being in "different stages of ripeness of capitalism" (because of the uneven development of capitalism, particularly in the period of imperial-

ism) is the reason why it is "historically inevitable that the proletariat will come into power by a variety of ways and degrees of rapidity".

The "Program" significantly notes in relation to these variations in the methods whereby the proletariat will come into power that a number of the countries in the world "must pass through certain transition stages leading to the dictatorship of the proletariat and must adopt varied forms of socialist construction" (p. 54 of Ex. 5). As has been made clear in the preceding discussion, in the less highly capitalistically developed countries and the countries which have not yet been capitalistically developed, the economic existence of these countries cannot be changed overnight into state monopolies of industry, because the capitalist industries to be converted into state monopolies are either in embryonic form or not yet extant. In these capitalistically backward countries there exist no, or at least very few, capitalist trusts or cartels to be expropriated by the proletarian State.

So, then, the "Program" very practically divides the various countries in the world into three main types, dependent upon the extent of the capitalist development already present in those countries, and forecasts the necessarily different course that the transition to the "Dictatorship of the Proletariat" will take in each category.

Here the "Program" does not merely predict the form of transition to the proletarian State in each category of countries, it *advocates*, it *asserts*, it states the *demand* of the world-wide program for the manner in which the change is to be effected. This is an important point to note.

It explicitly asserts that in the category of countries of highly developed capitalism, specifying the "United States of America, Germany, and Great Britain", which have "powerful productive forces, *highly centralized production*, with small scale production reduced to relative insignificance and *a long established, bourgeois-democratic political system*", "the *fundamental political demand of the program is direct transition to the dictatorship of the proletariat*". The "Program" then states the economic demands of the program in relation to these countries, which include "the organization of a large number of state *Soviet* farms" and a "rapid rate of socialist development generally" (pp. 54 and 55 of Ex. 5). It is highly significant, in the opinion of the Presiding Inspector, that the funda-

mental political change advocated by the "Program of the Communist International" specifically in relation to the United States is a "direct transition to the dictatorship of the proletariat" from the existing "bourgeois-democratic political system". It has already been observed from the review of Leninism how this "direct change" is to be effected, but the "Program" itself is also explicit on that point, as shall be presently set out.

But, before considering the direct method advocated by the "Program" to achieve the proletarian dictatorship, it is necessary to complete the analysis of the "Program's" dissertation in relation to the transition period. The "Program" asserts that in the category of countries with a medium development of capitalism, in which category it names Spain, Portugal, Poland, Hungary and the Balkan countries, where semi-feudal economic relationships still exist, and "the bourgeois-democratic reforms have not yet been completed", the process of transition to the proletarian dictatorship is more intricate than it is in the highly developed capitalist countries. In these less developed countries, the "Program" expounds, "the dictatorship of the proletariat may not come about *at once*, but in the process of transition from the democratic dictatorship of the proletariat and peasantry to the socialist dictatorship of the proletariat" (p. 55 of Ex. 5). In other words, the proletariat must initially act jointly with an agrarian or peasant revolutionary movement, and then develop this revolution, which the "Program" terms a bourgeois-democratic revolution, into the proletarian revolution, as soon as is possible, under the particular circumstances, culminating in the "Dictatorship of the Proletariat". It is parenthetically noted that this is the transition course that the 1917 Revolution in Russia took, as Stalin's exposition of Leninism points out (p. 36 of Ex. 22).

In relation to the colonial and dependent countries, such as China, India, Argentina and Brazil, and the even more backward countries, such as Africa, the principal tasks laid down by the "Program" are: to fight against feudal conditions there for the native populations; "to develop systematically the peasant agrarian revolution"; to fight against the foreign imperialism of the capitalists of the more advanced capitalist countries; and to fight for national independence. So, the "Program" postulates: "As a rule, transition to the dictatorship of the proletariat in

these countries will be possible only through a series of preparatory stages, at the outcome of a whole period of the transformation of the bourgeois-democratic revolution into socialist revolution, while in the majority of cases, successful socialist construction will be possible only if direct support is obtained from the countries in which the proletarian dictatorship is established" (p. 56 of Ex. 5). In other words, it is incumbent upon the victorious "Dictatorships of the Proletariats" to assist the revolutions in these backward countries so that the nationalist revolutions will more quickly develop into proletarian revolutions.

The totality of the world-wide scope of the revolutionary program advocated by the "Program" is evident from the following closing passage ending the "Program's exposition of the transition period from capitalism to socialism (pp. 58 and 59 of Ex. 5):

> "Thus, the *world* revolution in the course of its development, *while rousing the workers in the imperialist countries for the struggle for the proletarian dictatorship,* rouses also hundreds of millions of colonial workers and peasants for the struggle against foreign imperialism. In view of the existence of centers of socialism represented by *Soviet republics* of growing economic power, the colonies which break away from imperialism economically gravitate towards and gradually combine with the industrial centers of world socialism. Thus, drawn into the channel of socialist construction, they skip the further stage of development of capitalism as a predominant system, and obtain opportunities for rapid economic and cultural progress. The *Peasants' Soviets* in the backward ex-colonies and *the Workers' and Peasants' Soviets* in the more developed ex-colonies group themselves politically around the centers of proletarian dictatorship, join the growing *Federation of Soviet Republics,* and thus enter the general system of *the world proletarian dictatorship.*
>
> "Socialism, as the new method of production, thus obtains world-wide scope of development." (Inspector's Note: Underscoring supplied.)

The foregoing passage makes two points very clear: first, the prospectively world-wide implementation of the "Pro-

gram"; second, the implicit assumption that the Soviet form is the type of the Dictatorship of the Proletariat that will be universally established by the proletariat's successful seizure of state power in each country, and that each newly-created Soviet Republic will be inter-linked with the existing Union of Soviet Republics. The "Program" itself states: "The ultimate aim of the Communist International is to replace *world* capitalist economy by a *world system* of Communism" (p. 30 of Ex. 5).

The foregoing exposition of the meaning of this section in the "Program" dealing with the direct transition to the Dictatorship of the Proletariat in advanced capitalist countries such as the United States shows that the interpretation of it advanced by Counsel in the Memorandum (M. 12 and 14) and by the respondent (R. 72) distorts its essence and avoids the point that is directly relevant to the issue in this case.

As aforesaid, each and every fundamental precept of the Marxist-Leninist ideology, which has been discerned in the writings of Lenin and Stalin in evidence, is embodied in the "Program". In some parts of the "Program" not only are the ideas of Leninism iterated, but the very language in which the ideas are posited follows closely the language of Lenin and Stalin. In view of the length of this Opinion, a point by point exposition of the ideological coincidences cannot be essayed. However, their exact theoretical similitude in relation to the "Conquest of power" is directly relevant to the issue in the case, and therefore must be reviewed. Perforce, some of the following analysis repeats some points set out in the original Opinion (cf. O. 15 to 25 incl.).

To being with, the "Program" asserts that "the conquest of power by the proletariat is a necessary condition precedent" to the economic reorganization of Society (p. 35 of Ex. 5). In conformance to the Marxist-Leninist precept that the State is the manifestation of the dominance of one class in Society, the "Program" sets forth (pp. 47 and 48 of Ex. 5):

> "The dictatorship of the proletariat is a CONTINUATION OF THE CLASS STRUGGLE UNDER NEW CONDITIONS. The dictatorship of the proletariat is a stubborn fight—*bloody* and bloodless, *violent*, and peaceful, *military* and economic, peda-

gogical and administrative,—against the *forces* and traditions of the old society . . .

"*After the civil war has been brought to an end* the stubborn class struggle continues in new forms, primarily in the form of a struggle between the survivals of previous economic systems and fresh upshoots of them on the one hand, and socialist forms of economy on the other . . .

"In the *initial* stage of the proletarian dictatorship, the policy of the proletariat toward other classes and social groups within the country is determined by the following postulates:

"A. THE BIG BOURGEOISIE AND THE LANDOWNERS, *a section of the officer corps, the higher command of the forces*, and the higher bureaucracy—who remain loyal to the bourgeoisie and the landlords—are consistent enemies of the working class against whom ruthless war must be waged. . . .

"B. In regard to the TECHNICAL INTELLIGENSIA, which was brought up in the spirit of bourgeois traditions, and the higher ranks of which were closely linked up with the commanding *apparatus* of capital, the proletariat, while ruthlessly suppressing every *counter*-revolutionary action * * * must at the same time give consideration to the necessity of utilizing this skilled social force for the work of socialist construction * * *.

"C. In regard to the peasantry, it is the task of the Communist Party, while placing its reliance in the agricultural proletariat, to win over all the exploited and toiling strata of the countryside * * *. The dictatorship of the proletariat implies that the industrial workers alone are capable of leading the entire mass of the toilers. On the other hand; while representing the rule of a single class, the dictatorship of the proletariat at the same time represents a special form of class alliance between the proletariat * * * and the numerous non-proletarian sections of the toiling masses, or the majority of them. It represents an alliance for the complete overthrow of capital, for the complete suppression of the op-

position of the bourgeoisie and its attempts at restoration * * *." (Inspector's Note: Italics supplied; capitals represent italics in the original.)

Now, the foregoing quotation, besides iterating the class doctrine of Leninism, also expressly assumes that there will be a civil war by its declaration "after the civil war has been brought to and end". It also speaks of a "bloody", "violent", and "military" fight against the "forces" of the old society, as well as "bloodless", "peaceful", action. It postulates that "a section of the officer corps", "the higher command of the forces", and "the higher bureaucracy" will remain loyal to the bourgeoisie in the initial stage of the proletarian dictatorship.

The "Program", in accord with the Leninist ideology, asserts that bourgeois democracy, while formally standing for equality of all citizens before the law, actually "converts this formal equality before the law and these democratic rights and liberties * * * into a juridical fiction and, consequently, into a means for deceiving and enslaving the masses". The reason for this is that, "by leaving inviolable, defending, and strengthening the monopoly of the capitalist and landlord classes in the vital means of production", bourgeois democracy "is in reality based on a glaring material and economic inequality of classes". Accordingly, the "Program" terms the "so-called democracy" of the capitalist democratic state "the expression of the political domination of the bourgeoisie" (p. 38 of Ex. 5). Elsewhere, the "Program" states that the economic domination of the bourgeoisie finds "political expression in the organized capitalist state—the instrument for the suppression of the proletariat" (p. 11 of Ex. 5). At another point, the "Program" asserts that state power in the bourgeois state is "the dictatorship of the finance-capitalist oligarchy and the expression of its concentrated might (p. 16 of Ex. 5).

It is very evident then that proceeding from such premises the "Program" holds out no illusions as to how the proletariat is to take power in any bourgeois state, whether it be the masked dictatorship of the bourgeoisie in a bourgeois democracy such as the United States, or a reactionary "Fascist" dictatorship, which from the Communist viewpoint is merely the dictatorship of the bourgeoisie in an unmasked form. The "Program" flatly declares: "The

geoisie will use its instrument of force, the bourgeois throw of bourgeois power, the destruction of the capitalist state apparatus (bourgeois armies, police, bureaucratic hierarchy, the judiciary, parliaments, etc.) and *substituting* in its place new organs of proletarian power, to serve primarily as instruments for the suppression of the exploiters."

As has been already set forth, the "Program" posits that the "bourgeois power" is manifested through the organ of the bourgeois state and its apparatus of force (which are principally the armed services and the police). So, naturally, the "Program" contemplates that the bourgeoisie will use its instruments of force, the bourgeois state, to protect its property. This is recognized by the "Program" in its postulation that the conquest of power by the proletariat does not mean obtaining a parliamentary majority, for, it declares, the bourgeoisie will resort "to every means of violence and terror to safeguard and strengthen its predatory property and its political domination" (p. 36 of Ex. 5). Its political domination is expressed, as the "Program" declares, in the bourgeois state. Therefore the bourgeois state (as Lenin pointed out) increases its repressive measures as a potentially revolutionary crisis develops. That is why the "Program" declares: "Under these circumstances, every more or less important action of the proletariat becomes transformed into an action against the state power, i.e., into political action" (p. 16 of Ex. 5).

To strike at the bourgeoisie, the proletariat has to strike at the bourgeois state. As to what this political action against the state power comprises, the "Program" asserts: "* * * The powerful ideology of the international revolutionary working class * * * in complete harmony with the teachings of Marx and Engels * * * conducts a theoretical and practical revolutionary struggle for the dictatorship of the proletariat, and in the struggle applies *all forms* of proletarian mass action" (p. 26 of Ex. 5). Thus, the "Program" reveals that in the struggle towards the international establishment of the "Dictatorship of the Proletariat", it advocates the application of not only some, but *all* forms of proletarian mass action. What all these forms of proletarian mass actions are that the "Program" advocates, is disclosed in the section of the "Program" setting out the fundamental tasks of Communist strategy and tactics in seeking to achieve the seizure of power and the establishment of the "Dictatorship of the

Proletariat". Here, as everywhere else, the "Program" adheres strictly to the Leninist precepts.

The "Program" asserts "the successful struggle of the Communist International for the dictatorship of the proletariat presupposes the existence in *every* country of a compact Communist Party, hardened in the struggle, disciplined, centralized, closely linked up with the masses" (p. 76 of Ex. 5). This is advocated for *every country*. Then, among the stated strategic aims are: First, the attainment by these Communist Parties of predominant influence within the working class (the proletariat) and particularly, the gaining of control over the *trade unions*. In this connection, the reactionary trade union leaders are to be ousted. Second, the proletariat (led by the Communist Party) must acquire "hegemony" over wide sections of the non-proletarian toiling masses. This involves the "wholehearted support" of the poorer class of agricultural workers and the "neutrality" of the middle strata of the farming class in developed capitalist countries.

The "Program" significantly notes that "the fulfillment of all these tasks by the proletariat—the champion of the interests of the whole people and the leader of the broad masses in their struggle against the oppression of finance capital—is an essential prerequisite for the victorious Communist revolution" (p. 78 of Ex. 5). The reason why getting the support and/or neutrality of the masses is an essential prerequisite for the revolution is evident from the "Program's" dissertation upon the the tactics to be applied by *each* Communist Party.

These tactical postulations of the "Program", which are set out below, conform fully to Lenin's teachings and, since they apply to *all* Communist Parties, they are very revelatory in relation to the crucial issue. Before considering the "Program's" tactical exposition, it is enlightening to review Lenin's relevant tactical teachings. Lenin postulated: "Tactics must be based on a sober and strictly objective estimation of ALL the class forces in a given state (and in neighboring states, and in all states the world over)" (p. 46 of Ex. 21); "it is impossible to capture political power (and the attempt to capture it should not be made) until this struggle has reached a CERTAIN stage. This 'certain stage' WILL BE DIFFERENT in different countries and in different circumstances; it can be correctly gauged only by thoughtful, experienced and well-informed political leaders of the proletariat in each sepa-

rate country" (p. 36 of Ex. 21); "The art of politics (and the Communist's correct understanding of his tasks) lies in correctly gauging the conditions and the moment when the vanguard of the proletariat can successfully seize power, when it is able, during and after the seizure of power, to obtain adequate support from adequately broad strata of the working class and of the non-proletarian toiling masses * * *" (p. 35 of Ex. 21); "the fundamental law of revolution * * * is as follows; * * * the exploited and oppressed masses should understand the impossibility of living in the old way and demand changes * * * the exploiters should not be able to * * * rule in the old way * * * in other words, revolution is impossible without a nationwide crisis * * * revolution requires, firstly, that a majority of the workers * * * should fully understand that revolution is necessary and be ready to sacrifice their lives for it; secondly, that the ruling classes should be passing through a governmental crisis which would * * * weaken the government and make it possible for the revolutionaries to overthrow it rapidly" (pp. 66 and 67 of Ex. 21 and p. 45 of Ex. 22).

A comparison of the "Program's" tactical mandate to all Communist parties with the foregoing tactical postulation of Lenin reveals their complete agreement. This coincidence makes it clear that the interpretation of the section in the "Program" relative to tactics which counsel advances in the Memorandum (M. 16) is contrary to the Marxist-Leninist ideology.

Now, the Program, as set forth above, sets the strategic tasks along the path to the seizure of power and establishment of the "Dictatorship of the Proletariat", as including the Communist Party's procurement of predominant influence over the the proletariat, and especially control over the *trade unions;* of the wholehearted support of the poorer strata of the farming class; and of the "neutrality" of the middle strata of the farming class. Therefore, the tactics that it advocates for the use of each Communist Party are logically directed towards the accomplishment of these strategic tasks. Recalling Lenin's "fundamental law of revolution", when the ruling classes are passing through a governmental crisis which weakens the government, it is possible for the revolutionaries to overthrow it rapidly. This, then, is that "certain stage" when the "vanguard of the proletariat can successfully seize power". For, as Lenin teaches, the point that must be

borne in mind is: "to what extent the broad masses of the toilers are prepared (ideologically, politically, and practically) to accept the Soviet system and to disperse the bourgeois-democratic parliament (or to allow it to be dispersed)" (p. 43 of Ex. 21).

So, the "Program" states: "In determining its line of TACTICS, each Communist Party must take into account the concrete internal and external situation, the correlation of class forces; the degree of stability and *strength* of the bourgeoisie, the degree of *preparedness* of the proletariat, the position taken up by the various intermediary strata in its country, etc." (p. 80 of Ex. 5). It must be carefully noted that this instruction relates to tactics only, not to strategy. In other words, the immediate line of action must be flexibly adjusted according to the concrete situation in the country, but the strategic tasks of winning control over the proletariat and the trade unions, and obtaining the support and/or neutrality of the non-proletarian masses remain fixed by the "Program" for each Communist Party. As aforecited, it is Lenin's teaching that Communist tactics "must be based on a sober and strictly objective estimation of all the class forces in a given state (and in neighboring states, and in all states the world over)". For, Lenin warns, "without a revolutionary mood among the masses, and without conditions favouring the growth of this mood, revolutionary tactics would never be converted into action; but we * * * have been convinced by long, painful and bloody experience of the truth that revolutionary tactics cannot be built up on revolutionary moods alone" (p. 46 of Ex. 21).

Consequently, the "Program" postulates that each Communist Party must determine its propaganda slogans and its methods for waging the class struggle according to its sober and strictly objective estimate of the entire situation, "with the view to organizing and mobilizing the masses on the broadest possible scale and on the highest possible level" of the class struggle (p. 80 of Ex. 5).

The "Program" then divides its tactical mandate to *each* Communist Party into two parts; first, when a revolutionary situation is developing in the country (as perceived by the sober and strictly objective estimate of the situation); second, when such a revolutionary situation does not appear to be at hand in the country.

Adverting to the latter situation, it must be recalled that the strategic tasks laid down by the "Program" is control

over the proletariat and the trade unions, and "hegemony" over the non-proletarian masses. Therefore it logically follows that the "Program's" tactical instructions to each Communist Party for implementation in a non-revolutionary situation, are directed towards the Communist Party's attainment of these strategic ends. The "Program" directs (pp. 81 and 82 of Ex. 5):

> "When there is no revolutionary upsurge, the Communist Parties must advance PARTIAL slogans and demands that correspond to the every-day needs of the toilers, *linking them up with the fundamental tasks of the Communist International.* The Communist Parties must *not,* however, at such a time, advance TRANSITION slogans that are applicable only to revolutionary situations (for example, workers' control of industry, etc.). To advance such slogans when there is no revolutionary situation means to transform them into slogans that favor *merging* with the sytem of capitalist organization. Partial demands and slogans generally form an essential part of correct tactics; but certain transitional slogans go inseparably with a revolutionary situation. * * * Throughout THE ENTIRE *PRE*-REVOLUTIONARY PERIOD a most important basic part of the tactics of the Communist Parties is the TACTIC OF THE UNITED FRONT, as a means towards most successful struggle against capital, towards the class mobilization of the masses and the exposure and isolation of the reformist leaders.
>
> "The correct application of united front tactics and the fulfillment of the *general task of winning over the masses* presuppose in their turn systematic and persistent work in the *trade unions* and other mass proletarian organizations. It is the bounden duty of every Communist to belong to a *trade union,* even a most reactionary one, provided it is a mass organization. Only by constant and persistent work in the *trade unions* and in the factories for the steadfast and energetic defense of the interests of the workers, together with ruthless struggle against the *reformist bureaucracy,* will it be possible to win the leadership in the workers' struggle and to win the industrially organized workers over

to the side of the Party." (Inspector's Note: Italics supplied; capitals represent italics in the original.)

It is enlightening to note from the foregoing that in a non-revolutionary situation in the country, the Communist Parties are here instructed to refrain from advancing slogans dealing with the transition to the proletarian dictatorship in order to avoid any merger of the capitalist system with the proletarian state; further that systematic trade union work is the bounden duty of every Communist during the pre-revolutionary period.

But when this pre-revolutionary period ripens into the moment of "revolutionary upsurge", and the objective estimation of the internal and external situation of the country by the leaders of *each* Communist Party results in these leaders, as Lenin puts it, gauging that "the conditions and the moment" have arrived, "when the vanguard of the proletariat can successfully seize power" and "when it is able, during, and after the seizure of power, to obtain adequate support from adequately broad strata of the working class and of the non-proletarian toiling masses", and when the ruling classes are passing through a governmental crisis which weakens the government sufficiently, the "Program" reveals what is to be done by *each* and *every* Communist Party. Here the "Program" shows exactly its position in relation to the crucial issue of the case. The "Program" sets forth (p. 80 of Ex. 5):

> "In the event of a REVOLUTIONARY UPSURGE, *if the ruling classes are disorganized, the masses are in a state of revolutionary ferment, and the intermediary strata are inclining towards the proletariat, if the masses are ready for action and for sacrifice, the Party of the proletariat is confronted with the task of leading the masses to a direct attack upon the bourgeois state* * * *" (Inspector's Note: Italics supplied; capitals represent italics in the original.)

There could not be a plainer statement of the case than this assertion that the Party is to lead the masses in a direct attack on the bourgeois state.

The "Program" proceeds further, and following precisely Lenin's tactical postulates, sets out how this direct

attack upon the bourgeois state is to be made (p. 80 of Ex. 5):

> "* * * This it does by carrying on propaganda in favor of increasingly radical transitional slogans (for *Soviets*, workers' control of industry, for peasant committees for the seizure of the big landed properties, *for disarming the bourgeoisie and arming the proletariat*, etc.) and by organizing *mass action*, upon which all branches of the Party agitation and propaganda, including parliamentary activity, must be concentrated. * * *" (Inspector's Note: Italics supplied; capitals represent italics in the original.)

Now this *mass action* advocated by the "Program", exactly as Lenin teaches, is the key to the success of the revolution, and is also the solution to the crucial issue of this case. The "Program" continues (pp. 80 and 81 of Ex. 5):

> "* * * This mass action includes: a combination of strikes and demonstrations; a combination of strikes and *armed* demonstrations and finally, the *general strike* conjointly with *armed insurrection against the state power of the bourgeoisie.* The latter form of struggle, which is the *supreme* form, must be conducted according to the rules of *military science;* it presupposes a plan of campaign, offensive fighting operations and unbounded devotion and heroism on the part of the proletariat. An absolutely essential prerequisite for this form of action is the organization of the broad masses into militant units, which, by their very form, embrace and set into action the largest possible numbers of toilers (Councils of Workeds' Deputies, *Soldiers'* Councils, etc.) and intensified revolutionary work in the army and navy." (Inspector's Note: Italics supplied.)

This passage is not just rhetorical expression. All of the Leninist teachings, and the exposition in the "Program", logically culminate in just this mode of the "seizure of power", of the overthrow of the bourgeois state, and of the establishment of the "Dictatorship of the Prole-

tariat" in Soviet form. The Presiding Inspector is convinced that when the "Program" refers to the Communist Party being "called upon to conduct a bold and determined attack upon the enemy" and when it points out that the Party must take advantage of the revolutionary situation at the right moment, at the "certain stage", to "start a rebellion at that point", else the initiative will pass to the enemy and doom the revolution to defeat, the "Program" is deadly in Earnest (p. 81 of Ex. 5).

Lenin very pointedly notes that revolution is a serious business. As Stalin quotes him in "Foundations of Leninism", Lenin teaches (pp. 95 and 96 of Ex. 22):

> "Never PLAY with insurrection, but when beginning it firmly realize that you must GO TO THE END. You must concentrate a GREAT SUPERIORITY OF FORCES at the decisive point, at the decisive moment, otherwise the enemy, who has the advantage of better preparation and organization, will destroy the insurgents. Once the insurrection has begun, you must act with the greatest DETERMINATION, and by all means, without fail, take the OFFENSIVE. 'The defensive is the death of every armed uprising'. You must try to take the enemy by surprise and seize the moment when his forces are scattered. You must strive for DAILY successes, even if small * * * and at all costs retain 'MORAL ASCENDANCY'." (Inspector's Note: Capitals represent italics in the original.)

It is readily apparent from the foregoing why no act of force or violence directly attributable to the Communist Party has been manifested in the United States, at any time during the period of respondent's membership, or up to the present. The United States has not yet reached that "certain stage" of ripeness for revolution, as posited in Lenin's "fundamental law of revolution".

The "Program of the Communist International" has a double importance in this case. As the respondent, himself, testified, its general principles governed the Communist Party of the U. S. A. during all of the period of respondent's membership since the date in 1928 when it was adopted. Further, being the uniform and common program for all Sections of the Communist International,

the "Program" is indisputable evidence that during the period of the respondent's affiliation therewith, the Communist International advocated the overthrow of the government of the United States by means of an insurrection, an armed uprising of the masses under the leadership of the Communist Party of the U. S. A., involving whatever force and violence are necessary to accomplish the overthrow and to establish a "Dictatorship of the Proletariat" in Soviet form in the United States.

It was conceded that this document was circulated and distributed by the Communist Party of the U. S. A. while the respondent was a member (R. 145).

Accordingly it is found that the "affiliation", "membership" and "circulation and distribution" deportation charges are sustained by this pamphlet.

The next document to be considered is the Resolution of the same Sixth World Congress of the Communist International, that adopted the "Program", entitled "The Struggle Against Imperialist War and the Tasks of The Communists" (Ex. 27). This resolution was authenticated by all three witnesses (R. 172, 264 and 343).

In connection with this Resolution, it must be recalled that it is a fundamental postulation of "Marxism-Leninism" that the competition between the various imperialist capitalist countries leads inevitably to wars among them. Furthermore, as the "Program" states, it was Lenin's observation that following upon the establishment of the Soviet Republic in Russia, the world political situation has come to involve "the struggle of the world bourgeoisie against the Soviet Russian Republic, which must inevitably group around itself the Soviet movements of the advanced workers of all countries on the one hand, and all the national liberation movements of the colonial and oppressed nationalities on the other". The "Program" concludes "in the event of the imperialist states declaring war upon and attacking the U. S. S. R., the international proletariat must retaliate by organizing bold and determined mass action and struggling for the overthrow of the imperialist governments with the slogan of: Dictatorship of the Proletariat and Alliance with the U. S. S. R." (p. 66 of Ex. 5).

The Resolution of the Sixth World Congress of the Communist International under consideration is concerned with both these points: the inevitability not only of imperialist wars amongst the capitalist countries, but also of war by

these same bourgeois countries against Soviet Russia. It sets out in clear detail exactly what are the tasks of the proletariat in *all* countries, in relation to each of these eventualities which the Communist International apparently deemed to be imminent in 1926. The Resolution makes the foregoing clear at its very outset, where in dealing with "the menace of imperialist war", it asserts: "The antagonisms between the imperialist powers in the struggle for markets are more and more sharply expressed. But still more strongly than the antagonisms between the imperialist powers is growing the principal antagonism that is dividing the world into two camps: on the one hand the whole of capitalist world, and on the other hand the U. S. S. R., around which the international proletariat and the oppressed peoples of the colonies are grouping" (pp. 3 and 4 of Ex. 27).

The Resolution points out that the impending new wars "will rouse a mighty revolutionary movement that will embrace the industrial workers of America, the broad masses of peasants in agrarian countries and the millions of oppressed peoples in the colonies" (p. 8 of Ex. 27).

The Resolution postulates that under capitalism war is unavoidable because "the uneven economic and political development of the various countries * * * again and again creates the necessity for a new division of the world * * * (which) * * * cannot take place except through wars waged by the decisive imperialist countries against one another". It asserts that "the revolutionary proletariat advances the rational theory of Marxism-Leninism, as the only scientific basis for a real struggle against war". This, very evidently, expresses the teachings of "Leninism", which have already been reviewed.

According to the Resolution, "the 'abolition' of war is possible only through the abolition of capitalism, *i.e.*, through the overthrow of the bourgeois class of exploiters, through the proletarian dictatorship, the building of Socialism, and the elimination of classes. All other theories and proposals, however 'realistic' they may claim to be, are nothing but a deception calculated to perpetuate exploitation and war" (pp. 9 and 10 of Ex. 27).

The Resolution therefore asserts (pp. 10 and 11 of Ex. 27):

> "For this reason, Leninism combats all pacifist theories concerning the abolition of war and points

out to the masses of the workers and to all exploited people the only way leading to this goal: the overthrow of capitalism.

"But the overthrow of capitalism is impossible *without force, without armed uprising and proletarian* wars against the bourgeoisie. In the present epoch of imperialist wars and world revolution, as Lenin has stated, *proletarian civil wars* against the bourgeoisie, wars of the proletarian dictatorship against bourgeoisie states and against world capitalism, and national revolutionary wars of the oppressed peoples against imperialism, are inevitable and revolutionary. Therefore, the revolutionary proletariat, precisely because it is fighting for Socialism and for the abolition of war, cannot be against every war.

"Every war is but a continuation of the politics of certain classes 'by other means'. The proletariat, therefore, must carefully study the historical and political class meaning of EACH GIVEN WAR and give special study to the role of the ruling classes in all the countries participating in the war from the viewpoint of the international proletarian revolution.

"In the present epoch the following three types of wars are possible: FIRST, wars between imperialist states; SECOND, wars of imperialist counter-revolution against the proletarian revolution, or against countries in which socialism is being built; THIRD, national revolutionary wars, especially of colonial countries against imperialism, which are connected with wars of colonial suppression.

* * *

"This Marxian analysis of wars serves as the basis upon which the proletariat determines its position, in principle and in tactics, towards these various types of wars. The proletariat fights against the wars between imperialist states with a program of defeatism and the *transformation of the war into a civil war against the bourgeoisie.* The same position, in principle, is taken by the proletariat in imperialist countries in the event of a war of oppression waged by the imperialists against national revolutionary

movements, above all against the colonial peoples and in the event of imperialism waging an open counter-revolutionary war against the land of the proletarian dictatorship. The proletariat, however, supports and *conducts* national revolutionary wars against imperialism, and organizes for the defense of national revolutions and of the countries of the proletarian dictatorships."

(Inspector's Note: Italics supplied; capitals represent italics in the original.)

The foregoing passages set out the substance of the entire Resolution. However in its amplifications of this fundamental thesis, the Resolution even more clearly reveals that its revolutionary advocacy is in complete conformity with the Leninist teachings.

The Resolution declares in relation to the tasks of the Communists *before* the outbreak of any imperialist wars that the Communists, in the interests of the masses, "strive to rally the masses around their standard" in fighting to prevent imperialist war by proletarian revolution" (p. 13 of Ex. 27). It further asserts: The Communist *Parties* must bend all their work to the central task of preparing, winning over, and organizing the masses for the struggle against imperialist war * * *. In this struggle, the Communist Party, giving due and sober consideration to its strength, must march boldly and determinedly at the head of the masses. It must organize demonstrations and strikes against the war policy of the imperialist bourgeoisie, and, *at the proper moment*, put to the masses the question of the *general strike* and of *still sharper* methods of struggle (p. 20 of Ex. 27).

The foregoing makes it evident that the Resolution advocates exactly the same revolutionary tactics in the prewar period to achieve the objective of the overthrow of the bourgeoisie and establishment of the proletarian dictatorship, as "Leninism" and the "Program" does.

The Resolution is even more explicit in its doctrines in relation to proletarian action in case an imperialist war does break out. It asserts that if the proletariat is "unable to prevent the outbreak of war, they strive to transform it into civil war for the overthrow of the bourgeoisie" (p. 13 of

Ex. 27). The Resolution explains (pp. 22 to 24 incl. of Ex. 27):

> "'Transform the imperialist war into civil war' means primarily, REVOLUTIONARY MASS ACTION * * * The Communists must tell the workers that the struggle against war is not a single and simultaneous act, and that revolutionary mass action on the part of the workers and poor peasants, in the rear and at the front, for *the armed overthrow of the bourgeoisie*, is the only proper means of combating war, to which all other means must be directed * * *. The Communists' attitude toward the QUESTION OF THE GENERAL STIKE AGAINST WAR is determined by the same point of view, viz., the transformation of imperialist war into civil war * * *. Side by side with other revolutionary mass actions (demonstrations, strikes in munitions works, transport strikes, etc.), *the general strike*—as the *supreme* form of the mass strike movement—is an extremely important weapon, and as a transition to the *armed* uprising it constitutes a *stage* in the transformation of imperialist war into civil war * * * even in war time the general strike does not come like a bolt from the blue. It comes on the rising tide of revolutionary mass action (demonstrations, partial strikes, etc.), and as a result of the persistent *preparation*, which the *Communists* must make * * * of course, a general strike in war time will lead to revolutionary results more rapidly than in peace time, but it is by no means easier to prepare for and organize * * *. The general strike must not be an abstract watchword. It must be the aim and the *outcome* of our general practical activity * * * the revolutionary proletariat must be ready, in the event of a general strike, firmly to steer a course towards transforming the strike into an *armed rebellion* if conditions are propitious for that." (Inspector's Note: Italics supplied; capitals represent italics in the original.)

This explication of the mandatory Communist action in the event of the outbreak of imperialist war confirms the conclusion previously reached that "Leninism" postulates that the path to the proletarian seizure of power lies through a general strike which is to be transformed under

Communist leadership into an armed uprising against the bourgeois state, at the properly chosen moment when the rebellion appears to stand a good chance of succeeding.

This conclusion is also borne out by the Resolution's instructions as to what is to be done by the Communists under war conditions when a bourgeois state institutes a draft of its manpower for war service. The Resolution states: "* * * Lenin's instructions regarding the Communists' attitude toward the boycott (the refusal of military service) * * * means that the Communists, while strongly combating the harmful and illusory boycott slogan, must agitate for revolutionary work and organization in the bourgeois army, for the arming of the proletariat and for the transforming of imperialist war into civil war * * *. The Communists must advise the workers and poor peasants to reject the refusal of the military service slogan, to avail themselves of the opportunity to learn to use arms, to carry on revolutionary work in the army and, at the proper moment, to turn their weapons against the bourgeoisie * * *. They must speak out quite frankly about the inadequacy of refusal of military service as a means of combating war, and make it clear to the masses that the only correct way of combatting the imperialist war, *is to transform it into civil war.* Strenuous propaganda must be conducted urging the necessity for carrying on revolutionary work in the bourgeois armies. *If the general situation is favorable for it,* Communist must utilize * * * mass movements for the formation of guerrilla forces, and for the immediate development of civil war" (pp. 24 and 25 of Ex. 27).

The same conclusion is indisputably established by the Resolution's mandate to the Communists in relation to instigation of proletarian civil war against the bourgeoisie. Here, particularly, the Resolution instructs the Communist to learn the lessons derived from the experiences of the proletarian civil wars which World War I provoked, and which, in Russia, "resulted in the victory of the proletariat". The lessons to be drawn *for application by all Communists* are as follows (pp. 27 and 28 of Ex. 27):

> All this makes it incumbent upon the Communists, primarily in connection with struggle against imperialist and counter-revolutionary wars, to put the

question of proletarian civil war openly to the masses and to study the lessons of the above-mentioned uprisings.

"These lessons are:

"(a) In regard to the necessary CONDITIONS PRECEDENT for rebellion. *A revolutionary situation must prevail,* i.e. the ruling class must be in a state of crisis, for example, as the result of military defeat. The misery and oppression of the masses must be intensified to an extraordinary degree, and the masses must be active and *ready to overthrow the government by revolutionary mass action.* A tried and tested *Communist Party,* having influences over the *decisive masses* of the proletariat, must exist.

"(b) In regard to the preparations for rebellion. The rebellion cannot be based solely on the Party; it must be based upon the broad masses of the working class. Of decisive importance is the preparatory work in the proletarian mass organizations, *particularly in the trade unions;* to secure their *active participation* in the work of preparing for the rebellion, and the creation of *special organization for rebellion*[35] which shall unite the masses. The question of rebellion must be put openly to the masses.

"Persistent and intensified work must be conducted for the purpose of *disintegrating the bourgeois armies,* which work, *at the moment of the uprising will assume* the character of a struggle for the army.[36]

"(c) In regard to CARRYING OUT THE REBELLION. The rule must be: no playing with rebellion. The rebellion once launched must be vigor-

35. i.e., the Soviets.

36. i.e., The formation of Soldiers' and Sailors' (and today, Airmen's) Soviets comprising the revolutionary segment of these armed forces which turns on the part of the armed forces which remain loyal to the bourgeois government.

> ously prosecuted until the enemy is utterly crushed. * * * There is an art in rebellion; but rebellion is not purely a military problem, it is primarily a political problem. *Only a revolutionary Party can lead a rebellion.* On the outbreak of the rebellion *the Party* must subordinate the whole of its activity to the requirements of the armed struggle." (Inspector's Note: Italics supplied; capitals represent italics in the original.)

This same conclusion as to the Communist International's advocacy of the proscribed objective is strongly supported by the section in this Resolution dealing with the situation if an imperialist war should arise against the Soviet Union. Here the Resolution also espouses the transformation of such a war into civil war and directs that the Communists and the whole proletariat in the imperialist countries "must not only fight for the defeat of their own government in this war, but must actively strive to secure victory for the Soviet Union. * * * The Red Army is not an 'enemy army', but the army of the *international proletariat.* In the event of a war against the Soviet Union, the workers in capitalist countries must not allow themselves to be scared from supporting the Red Army and from expressing this support by fighting against their own bourgeoisie. * * * The victory of the October Revolution gave a Socialist *fatherland* to the workers of the world, viz. the Soviet Union. Defense of the Soviet Union is a matter of class interest for the *international* proletariat * * *" (pp. 29 to 31 incl. of Ex. 27).

Finally, the Resolution furnishes irrefutable proof as to the nature and mode of formation of the Soldiers' and Sailors' (and Airmen's) Soviets in its section dealing with the proletariat's attitude toward the army. It terms the army "the decisive factor in all wars" (p. 39 of Ex. 27). The Resolution instructs the proletariat that in imperialist States (which appellative comprehends the United States) "no matter what their form of organization may be; armies are a *constituent part of the bourgeois State apparatus, which the proletariat in the course of its revolution, must not democratize, but break up.*" (pp. 40 and 41 of Ex. 27). The Resolution points out: "By militarizing the workers and training them in the use of arms, imperialism creates the prerequisites for the victory of the proletariat in the civil war" (p. 43 of Ex. 27). The really revelatory pas-

sages of the Resolution in relation to the army are the following (pp. 47 to 49 incl. of Ex. 27):

"* * * If an immediate revolutionary situation prevails, and if the industrial proletariat is beginning to establish Soviets, the slogan, Establish soldiers' councils assumes immediate practical importance and facilitates the work of uniting the masses of the soldiers with the proletariat and the poor peasantry in their struggle for power.

* * *

"The arming of the proletariat assumes various forms at various stages of the revolution. In the period prior to the seizure of power, and in the first period after the seizure of power, it takes the form of a proletarian militia—a militia of the toilers, the Red Guard, and also Red Guerilla detachments. The Red Army is the form of military organization of the Soviet Government, i.e., it is the army of the dictatorship of the proletariat.

* * *

"The proletarian militia is the armed organization of the proletariat fighting for the establishment of the dictatorship of the proletariat, or, an organ of the proletarian dictatorship for the purpose of suppressing the exploiters * * *.

"A distinction must be made between the militant slogan of workers' militia, proletarian militia and Red Guard—*to be established prior to the capture of power,* and which represent the rudiments of the Red Army—and the forms of militia which must arise *after* the dictatorship of the proletariat has been established and consolidated, in the period when the State and classes are dying out * * *."
(Inspector's Note: Italics supplied.)

Thus, this Resolution of the Communist International, adopted in 1928, stands as the most outspoken declaration in evidence of the Communist doctrine that *all* bourgeois governments, whatever be their character, must be overthrown by an armed rebellion, involving all necessary force and violence, developed and led by the Communist Party in *each* country, in order to establish in *each* and *every*

such country, a "Dictatorship of the Proletariat" in Soviet form. It is convincing proof that during the period of the respondent's membership, both the Communist International, and its Section in this country, the Communist Party of the U. S. A., which in its Constitution (Ex. 4) dedicated itself to the Marxist-Leninist principles embodied in the Communist International, advocated the overthrow by force and violence of the Government of the United States.

All three witnesses testified to the circulation and distribution of the pamphlet containing this Resolution of the Communist International by the Communist Party of the U. S. A. (R. 172, 264 and 343). Accordingly, the circulation and distribution of this pamphlet by the Party constitutes substantial evidence to sustain the deportion charges of "affiliation", "membership", and "circulation and distribution".

There are two other doctrinal pronouncements of the Communist International in evidence, a Thesis of the Thirteenth Plenum of the Executive Committee of the Communist International promulgated in 1933, and the Resolutions adopted in 1935 by the Seventh Congress of the Communist International, together with the Closing Speech of Dimitroff delivered at that Congress (Exs. 11 and 47). These documents were sufficiently identified in the record to be established as being authentic (R. 149 and 459 to 462, incl.). As the "Constitution" of the Communist International provides, the Executive Committee is the leading body of the Communist International between Congresses and is authorized to give instruction to, and control the activities of all Sections of the Communist International (P. 90 of Ex. 5). The Sixth World Congress of the Communist International convened in 1928 (Ex. 5) and the next World Congress, the Seventh, met in 1935 (Ex. 47). Hence, the Thesis of the Executive Committee published in 1933 appears to be as official a declaration of the Communist International as the 1935 Resolutions.

Study of the 1933 Thesis and the 1935 Resolutions under discussion reveals that they are both concerned with the growth of the menace of Fascism, especially in view of the coming into power of Nazism in Germany. In these documents, the Communist International enjoins all Communist Parties to follow its directed international tactical line calculated to meet and overcome this menace. It is significant to note that while these doctrinal pronounce-

ments reorient the *immediate* tactical approach of international Communism to counter Fascism, they disclose the Communist International's continued steadfast adherence to the Leninist strategy and tactics to achieve the international proletarian "conquest of power" it had adopted in its 1928 "Program" and "Resolution" on War. As shall be noted, the 1933 Thesis calls for intensification of revolutionary activity in exactly the Leninist path to power prescribed by the "Program" and the 1935 Resolutions counsel continuation of the same efforts to achieve the ultimate Communist objective, but stress immediate tactical concentartion on temporary joint action with the Socialists as the best means of opposing the Fascist menace.

The 1933 Thesis postulates that the general crisis of capitalism has "already shaken the capitalist system to a far-reaching degree all over the world" and "the tremendous strains of the internal class antagonisms in the capitalist countries, as well as the international antagonisms", existing in 1933, show that the "objective prerequisites for a revolutionary crisis have matured to such an extent that at the present time the world is closely approaching a new round of revolution and wars". For, the Thesis states, "the bourgeoisie is furiously intensifying its economic means of exploitation by methods of fascist violence, by robbing the toiling masses and by predatory wars against the nations. But at the same time, the revolutionary indignation of the toiling masses and their readiness to overthrow the intolerable yoke of the exploiting classes are growing more and more". The Thesis declares that "Fascism is the open, terrorist dictatorship of the most reactionary, most chauvinist, and most imperialist elements of finance capital". It further asserts that the growth of Fascism means, among other things, "that the capitalists are no longer able to maintain their dictatorship by the old methods of parliamentarism and of bourgeois democracy in general" and "that the methods of parliamentarism and bourgeois democracy are becoming a hindrance to the capitalist in their internal policies the struggle against the proletariat), as well as in their foreign politics (war for the imperialist redistribution of the world)" (pp. 131 and 132 of Ex. 11).

It is upon these premises that the Thesis formulates its directive to all Communist Parties to take full advantage of the maturing revolutionary crisis and to utilize the op-

portunities it presents so as to achieve the Communist objectives and yet avoid producing any further "fascization" of the bourgeois states (the bourgeois reaction to the threatening advance of Communism). It is interesting to note that while Lenin did not forsee the Fascistic development of a "corporate state" theory or forecast its extreme dictatorial suppression of the masses and its obliteration of bourgeois "democracy", he did point out that as revolutionary ferment in the bourgeois state increases, the bourgeoisie through its governmental apparatus inevitably increases its forcible repression of the proletariat and of the other oppressed classes. If the Thesis' description of the nature of Fascism is correct, then the fascistic development of the bourgeois state bears out Lenin's forewarning.

That the Thesis advocates the intensification of Communist efforts to achieve the Leninist objectives set out in the "Program", and not any divergency therefrom, is evident from the following passages (pp. 135 and 138 of Ex. 11):

> "The question as to how soon the *rule* of bankrupt capitalism will be *overthrown by the proletariat* will be determined by the fighting preparedness of the majority of the working class, by the successful work of the Communist Parties in undermining the mass influence of social-democracy.
>
> • • •
>
> "The bourgeoisie wants to postpone the doom of capitalism by a criminal imperialist war and a counter-revolutionary campaign against the land of victorious socialism. The great historical task of international Communism is to mobilize the broad masses against war even before war was begun, and thereby hasten the doom of capitalism. *Only a Bolshevik struggle* before the outbreak of war *for the triumph of revolution* can assure the victory of a *revolution* that *breaks* out in connection with war.
>
> "In the conditions of the maturing of the world revolutionary crisis, when the bourgeoisie is trying to divert the ferment, the discontent and the indignation of the masses into the channel of FASCIZATION AND WAR in order to strengthen its dictatorship, *the main task of the Communists* is to direct

this mass movement towards the fight *for the overthrow of the dictatorship of the exploiting classes.*"
(Inspector's Note: Italics supplied; capitals represent italics in the original.)

So, then, the Thesis prescribed that the way in 1933 to avert any further fascization of bourgeois states was simply the intensification by the Communist Parties of their efforts to divert the unrest of the masses away from the deceptive path of Fascism and war and towards the revolutionary overthrow of bourgeois governments. The Thesis points to three fields in which the Communists had to work to enlist the mass support that Leninism postulates is one of the necessary preconditions for proletarian revolution. It enjoins them: first, to expose excessive nationalism (Chauvinism), and to popularize the example of the U. S. S. R.'s solution of the national question (Inspector's Note: by a union of Soviets?); second, to fight against the "fascization" of those bourgeois States which the Thesis terms "so-called 'democratic' countries",[37] by exposing to the people the reactionary nature of Fascism. In this connection the Thesis directs that the Communist Parties must start with championing "the everyday economic and political interests of the toilers, rouse the masses against the fascist dictatorship which deceived the workers, the peasants and the urban toilers; expose the demagogy and all provocations of fascism * * *, *stirring up strikes and leading the proletariat up to mass political strikes;* * * * penetrate all the fascist mass organizations * * *; utilize all mass movements * * *; * * * expose in the eyes of the peasants the policy which fascism pursues in the interests of the landlords and kulaks * * *; prepare even now for *the transformation of the imperialist war into civil war,* concentrate their forces in each country, at the VITAL PARTS OF THE WAR MACHINE of imperialism * * * by all means in their power ensure the practical organization of *mass action* * * * and * * * INTENSIFY POLITICAL EDUCATIONAL WORK IN THE *Army and in the Navy.* * * * self-sacrificingly * * * defend the U. S. S. R. against the counter-revolutionary conspiracy of the imperialists * * *"; third, to fight against social-democracy by "carefully exposing to the masses and refuting the hypocritical and

37. This characterization is in line with the Leninist view of bourgeois "Democracy", set out earlier.

treacherous sophistries of social-democracy * * * (and) * * * win over the social-democratic workers for *active revolutionary struggle under the leadership of the Communist Parties* * * * (and) * * * fight for the realization of a united militant front with the social-democratic workers—in spite of and against the will of the treacherous leaders of social-democracy" (pp. 138 to 141, incl., of Ex. 11).[38]

In its aforecited instructions to the Communist Parties to "lead the proletariat up to mass political strikes", to "prepare for the transformation of the imperialist war into civil war", to ensure the practical organization of mass action", and to "win over the * * * workers for active revolutionary struggle under the leadership of the Communist Parties", the Thesis makes its attachment to the fundamental Leninist strategy and tactics plain. Its advocacy of the forceful revolutionary overthrow of bourgeois governments and the establishment of the Soviet form of the "Dictatorship of the Proletariat", is even more clearly revealed in its conclusions, where it sets forth, under a heading of "For a Revolutionary Way Out of the Crisis—for a Soviet Government", the following (pp. 141 and 142 of Ex. 11):

> "1. The Communist Parties must, with all resoluteness, raise before the masses the task of the revolutionary way out of the crisis of capitalism. * * * "Against the quack recipes of the fascists and the social-fascists (Inspector's Note: the name the Thesis gives to the Social-Democratic leaders) for saving decaying capitalism, the Communists must prove to the masses that the ills of capitalism are incurable. Therefore, the Communists, while defending in every way the demands of the toilers, must untiringly disclose to the masses who are suffering from starvation and exploitation the whole truth, viz., that their catastrophic conditions will grow worse and worse under the blows of the continuous offensive of capitalism, until the toilers succeed in uniting their forces for a counter-blow and *the crushing of bourgeois rule.* There is no way out

38. It is to be noted that the 1933 Thesis advocates a tactical line of winning over the social-democratic workers over the opposition of the Social-Democratic leaders whereas the 1935 Resolution, as shall be set out, advocates the tactical line of inviting these same Social-Democratic leaders to join temporarily with the Communists in "United Front" activities.

of the general crisis of capitalism other than the one shown by the OCTOBER REVOLUTION, via *the overthrow of the exploiting classes by the proletariat*, the confiscation of the banks, of the factories, the mines, transport, houses, the stocks of goods of the capitalists, the lands of the landlords, the church and the crown.

"2. It is necessary increasingly to popularize the LIVING EXAMPLE of the Land of the Soviets and to explain * * * how the Soviet proletarian state, *which is at the same time the organization of the power of the proletariat* as well as the dominating productive organization of society, constantly increases the social wealth and thereby the welfare of all the toilers, whereas *every bourgeois state*, being a social economic parasite, devours and exhausts the economic forces of the people.

"It is necessary to unfold before the toilers of each country a program which * * * should, while making allowances for the peculiar conditions of the different countries, show *what the Soviet power will give them in their own country.* * * *

"The Soviet power, *which is based on the mass organization of the workers and semi-proletarians*, offers the possibility of the wide and real enjoyment of democracy by all the toiling masses who were formerly oppressed by capitalism.

"*The Soviet power is the state form of the proletarian dictatorship.*[39]

"The Soviet power is the state form of the revolutionary democratic dictatorship of the proletariat and the peasants, which ensures the growing over of the bourgeois-democratic revolution into a socialist revolution (China, etc.).[40]

"It is democracy for the toilers, but a stern dictatorship against exploiters.

* * * *

39. This direct statement reveals the falsity of the witness, Schneiderman's claim that the Communists did not consider the "Dictatorship of the Proletariat" to be a form of government.

40. This "growing over" applies (as Stalin's Leninist teachings reveal) to those countries which have not yet been capitalistically developed, and which have not yet evolved to a state of "bourgeois democracy".

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"3. It is necessary with all insistence to raise the question of POWER in the mass work of the Communist *Parties*. The chief slogan of the Communist International is: SOVIET POWER.

* * *

"The example of Bolshevism is the example of proletarian internationalism. The victory of the socialist revolution is possible only by strengthening the international ties of the revolutionary proletariat. * * *

"The Plenum of the E.C.C.I. *obliges all* Sections of the Communist International to be on their guard at every turn of events, and to exert every effort without losing a moment for the revolutionary preparation of the proletariat for the *impending battles for power.*"

(Inspector's Note: Italics supplied; capitals represent italics in the original.)

In positing the "crushing of bourgeois rule", "the overthrow of the exploiting classes" and the establishment of "Soviet Power", within the context here, the Thesis patently shows its adherence to the Leninist advocacy of the overthrow by an insurrection, involving whatever force and violence are necessary in the process, of the existing bourgeois governments in all capitalist countries in the world and the substitution in their stead of Soviet systems of the "Dictatorship of the Proletariat".

It was acknowledged by Counsel and the respondent that this Thesis of the Communist International was published in "The Communist", the official monthly magazine of the Communist Party of the U. S. A., in the issue of February, 1934. The witness, HEWITT, testified to its circulation and distribution by the Party (R. 148). As discussed in the original Opinion, the record establishes that the Communist Party of the U. S. A. not only approved this Thesis, but implemented it through its own Manifesto and Resolutions at its 1934 National Convention (O 36 through 39, and Ex. 12). Accordingly, the evidence regarding this Thesis sustains the deportation provisions charging "circulation and distribution", "affiliation" and "membership".

The 1935 Resolutions of the Seventh World Congress of the Communist International, as already discussed, appear

in pamphlet form together with the closing speech of Georgi Dimitroff, whose report formed the basis for one of the Congress' resolutions (Ex. 47). The inclusion of this closing speech in the pamphlet circulated and distributed by the Communist Party of the U. S. A. shows it to be an authoritative pronouncement of the Congress. The caption of the speech sets forth: "The Present *Rulers* of the Capitalist Countries Are But Temporary, The Real Master of the World is The Proletariat" (P. 5 of Ex. 47). Dimitroff, in this closing address, oratorically asks what are the results and significance of the Congress and of the Communist movement "for the working class of the world, for the toilers of every land". He then proceeds to state what these results and this significance are.

Dimitroff points out that the "victory of socialism" in the Soviet Union is of "world-historic significance", in that "it strengthens the Soviet Union as the base of the *world* proletarian revolution" (p. 5 of Ex. 47). He asserts that the Seventh World Congress has "laid down the foundations for so extensive a mobilization of the forces of all toilers against capitalism as never existed in the history of the working class struggle". He then recounts the achievement of the Communist Party of France in successfully negotiating a pact with the French Socialist Party "providing for joint action" in a "united front of struggle against Fascism". He states that this action of the French Communists in uniting the French workers, both Communists and Socialists, in an anti-fascist people's front "helped to prepare the decisions of our Congress, which are of such tremendous importance to the workers of *all* countries" (pp. 6 and 7 of Ex. 47).

Dimitroff notes that what the French Communists did "constitutes only initial steps". He declares (p. 7 of Ex. 47):

> "* * * Our Congress, in mapping out *the tactical line* for the years *immediately ahead*, could not confine itself to merely recording this (Inspector's note: French) experience. It went further. We, Communists, are a class party, a proletarian party. But as the vanguard of the proletariat, we are * * * ready to undertake joint action with other parties fighting against fascism."
>
> (Inspector's Note: Italics supplied.)

Then, Dimitroff significantly reveals that while the Communists were ready in 1935 to join in "United Front" activities and in a single political party with the Socialists in order to block Fascism, the Communist International still firmly adhered to the Leninist precepts it formerly held. This is disclosed in his remarks which follow (p. 7, of Ex. 47):

> "We, Communists, have *other ultimate* aims than these parties, but in struggling for our aims we are ready to fight jointly for any *immediate* tasks which when realized will weaken the position of fascism and strengthen the position of the proletariat.
>
> "We, Communists, employ *methods of struggle which differ from those of other parties*, but while using our own methods in combating fascism, we, Communists, will also support the methods of struggle used by other parties, however inadequate they may seem to them, if these methods are really directed against fascism.
>
> "We are ready to do all this because, in countries of bourgeois-democracy, we want to block the road in the way of reaction and the offensive of capital and fascism, prevent the abrogation of bourgeois-democratic liberties, forestall fascism's terrorist vengeance upon the proletariat. * * *"

(Inspector's Note: Italics supplied.)

Now, the other "ultimate aims" and the differing "methods of struggle" which distinguish the Communists from the other parties, and to which Dimitroff here has reference, stand forth in all clarity in the following passages of Dimitroff's speech (pp. 10 to 12, and 14, incl., of Ex. 47):

> "At this Congress we have taken the course of forming A SINGLE MASS POLITICAL PARTY OF THE WORKING CLASS, to end the political split in the ranks of the proletariat. * * *
>
> * * *
>
> "Ours has been a Congress of a NEW TACTICAL ORIENTATION FOR THE COMMUNIST INTERNATIONAL.
>
> "*Standing firmly on the impregnable position of Marxism-Leninism which* has been confirmed by the

entire experience of the international labor movement, and primarily by the victories of the great October Revolution, our Congress, acting in the spirit and *guided by the method of* LIVING MARXISM-LENINISM, has reshaped the *tactical* lines of the Communist International to meet the changed world situation.

"The Congress has taken a firm decision that the united front tactics must be applied IN A NEW WAY. The Congress is emphatic in its demand that Communists do not content themselves with the mere propaganda of general slogans about *proletarian dictatorship* and *Soviet Power,* but that they pursue a definite, *active Bolshevik* policy with regard to all urgent problems that affect the vital interests of the working class, of their own people and of the international labor movement. The Congress insists most emphatically that all tactical steps taken by the Communist Parties be based on a sober analysis of actual conditions, on a consideration of the relation of *class forces,* and of the political level of the broadest masses. * * *

* * *

"* * * we take account of the process of development of the revolution * * * as active participants in the process. By proceeding as the party of revolutionary action—fulfilling at every stage of the movement of the tasks that are in the interest of the revolution, the tasks that correspond to the specific conditions of the given stage, and soberly taking into consideration the political level of the wide toiling masses—we accelerate, more than in any other way, the creation of the subjective *preconditions* necessary for the VICTORY OF THE PROLETARIAN REVOLUTION."

(Inspector's Note: Italics supplied; capitals represent italics in the original.)

The foregoing exactly follows Lenin's teachings in "'Left Wing' Communism, An Infantile Disorder", that to carry on the war for the overthrow of the international bourgeoisie, it is necessary for the Communists "to maneouvre", "to utilize the conflict of interest among one's enemies", "to temporize", "to compromise with possible (even though unstable, vacillating and conditional)

allies" (p. 52 of Ex. 21); further, that it is necessary that "tactics * * * be based upon a sober and strictly objective estimation of ALL the class forces" (p. 46 of Ex. 21); and that "the main task of contemporary Communism in Western Europe and America is to learn to seek, to find, to correctly determine the specific path or the particular turn of events that will BRING the masses RIGHT UP AGAINST the real, last, decisive and great revolutionary struggle" (p. 78 of Ex. 21).

That the Seventh Congress of the Communist International remained pledged to the Marxist-Leninist strategy and long-range tactics is further evidenced by the following closing statements of Dimitroff (pp. 14 and 15 of Ex. 47):

> "* * * This makes it our duty to intensify in every way the work of forming and training cadres and reinforcing the Communist Parties with genuine Bolshevik leaders, so that at abrupt turns of events the Parties might quickly and independently find correct solutions for the political and tactical problems of the Communist movement, *on the basis of the decisions of the Congresses of the Communist International and the Plenums of its Executive Committee.* * * *"
>
> It is likewise necessary in *each* country to ensure the correct application of the decisions adopted by the Congress.[41] This will depend primarily on appropriately testing, distributing and directing the cadres. * * *
>
> * * *
>
> "To us, the workers, * * * belongs the world,—a world built by the hands of the workers. The present rulers of the capitalist world are but TEMPORARY rulers.
>
> "The proletariat is the REAL MASTER, TOMORROW'S MASTER OF THE WORLD. And it must enter upon its historical rights, *take into its hands the reins of government in every country,* all over the world.
>
> "WE ARE DISCIPLES OF MARXS AND ENGELS, LENIN, AND STALIN. We should be worthy of our great teachers."
>
> (Inspector's Note: Italics supplied; capitals represent italics in the original.)

41. These decisions include the 1928 "Program" and "Resolution" on war.

Department of Justice Record Annexed to the Return

Opinion of Presiding Inspector, Gilbert Zimmerman on the Reopened Hearing

The unswerving devotion of the Seventh Congress of the Communist International to the revolutionary Leninist path prescribed by the "Program" "leading to the proletarian seizure of power" from the bourgeoisie is revealed in the Resolutions of the Congress, along with the Congress' readiness to enter into "united Front" activities including a single political party for the time being with the Social-Democrats, in order to combat Fascism.

This continued adherence to the Leninist path previously adopted in the "Program" is evident in the Resolution on the Report of Wilhelm Pieck, which gives the following instruction, among others, to the Executive Committee of the Communist International (p. 18 of Ex. 47):

> "(b) Systematically to assist in the formation and training of cadres of genuinely Bolshevik leaders in the Communist Parties so that the Parties will be able at the sharpest turn of events independently and quickly to find, *on the basis* of the *decisions* of the *Congresses* of the Communist International and *Plenums* of the *Executive Committee* of the Communist International, correct solutions for political and tactical problems of the Communist movement";

and which concludes (p. 20 of Ex. 47):

> "The Seventh World Congress of the Communist International point (*sic*) out that the TRANSFORMATION OF MATURING POLITICAL CRISIS INTO a *victorious proletarian revolution* DEPENDS *solely* ON THE *strength* AND *influence* OF THE *Communist parties* AMONG THE BROAD MASSES OF THE PROLETARIAT, ON THE ENERGY AND SELF-SACRIFICING DEVOTION OF THE COMMUNISTS. Now, when political crises are maturing in a number of capitalist countries, it is the most important, the paramount task of Communists. * * * to * * * transform the various Sections of the Communist International into mass parties, bring the majority of the working class under the influence of Communist Parties, and thus secure the *conditions necessary for the victory of the proletarian revolution.*"
>
> (Inspector's Note: Italics supplies; capitals represent italics in the original.)

The same steadfast devotion to the development of the Leninist conditions for proletarian revolution, along with the immediate aim of countering Fascism is shown in the Resolution on the Report of Georgi Dimitroff, which sets forth (pp. 25 and 26 of Ex. 47):

> "In the face of the towering menace of fascism to the working class and all the gains it has made, to all toilers and their elementary rights, to the peace and liberty of the peoples, the Seventh Congress of the Communist International declares that AT THE *present* HISTORICAL STAGE IT IS THE MAIN AND *immediate* TASK OF THE INTERNATIONAL LABOR MOVEMENT TO ESTABLISH THE UNITED FIGHTING FRONT OF THE WORKING CLASS. For a successful struggle against the offensive of capital, against the reactionary measures of the bourgeoisie, against fascism, it is imperative that unity of action be established between all sections of the working class, irrespective of what organizations they belong to, even before the majority of the working class unites *on a common fighting platform for the overthrow of capitalism and the victory of the proletarian revolution.* * * *"
>
> (Inspector's Note: Italics supplied; capitals represent italics in the original.)

What this passage says in effect is that now the Communists will join with any other section of the working class movement in unified action to face "the towering menace of fascism", but later the Communists will seek to obtain the support of the "majority of the working class" in behalf of the Communist fighting program "for the overthrow of capitalism and the victory of the proletarian revolution".

This Resolution on the Report of Georgi Dimitroff continues in the following significant vein (pp. 26 and 27 of Ex. 47):

> "With this as its point of departure, the Seventh Congress of the Communist International enjoins the Communist Parties to be guided by the following instructions when carrying out the *united front tactic:*

"1. THE DEFENSE OF THE IMMEDIATE ECONOMIC AND POLITICAL INTERESTS OF THE WORKING CLASS, THE DEFENSE OF THE LATTER AGAINST FASCISM, must be the starting point and form the main content of the workers' united front in all capitalist countries. * * * They must strive, through the joint action of the labor organizations, to mobilize the masses around A PROGRAM OF DEMANDS THAT ARE CALCULATED REALLY TO SHIFT THE BURDEN OF THE CONSEQUENCES OF THE CRISIS ONTO THE SHOULDERS OF THE RULING CLASS, DEMANDS, THE FIGHT TO REALIZE WHICH DISORGANIZES FASCISM, HAMPERS THE PREPARATIONS FOR IMPERIALIST WAR AND STRENGTHENS THE POSITIONS OF THE PROLETARIAT.

"*While preparing the working class for rapid shifts in the forms and methods of struggle as circumstances change,* it is necessary to organize, in proportion as the movement grows, *the transition from the defensive to the offensive against capital, steering towards the organization of a mass political strike,* in which it is indispensable that the participation of the *principal trade unions* of the country should be secured.

"2. Without for a moment giving up their *independent* work in the sphere of *Communist* education, *organization and mobilization of the masses,* the Communists, in order to render the road to unity of action easier for the workers, must STRIVE TO SECURE JOINT ACTION WITH THE SOCIAL-DEMOCRATIC PARTIES, REFORMISTS TRADE UNIONS AND OTHER ORGANIZATIONS OF THE TOILERS AGAINST THE CLASS ENEMIES OF THE TOILERS ON THE BASIS OF SHORT—or LONG-TERM AGREEMENTS * * *".

(Inspector's Note: Italics supplied; capitals represent italics in the original.)

The foregoing exemplifies the whole of the Seventh World Congress' approach to the problem of combating

Fascism by means which at the same time advance towards the proletarian revolution. The 1933 Thesis (Ex. 11) had directed extirpation of the reactionary Socialist leaders from the working class movement as a step in the direction of turning the mass ferment towards proletarian revolution and away from Fascism. But when the French experience proved that joining with the Socialists was a maneuver that enlisted popular support and which succeeded in stopping Fascism, the Communist International modified its tactical line accordingly at its 1935 Congress in these Resolutions under discussion. However, at the same time, it obliged its Sections as set forth above, not "for a moment" to give up "their *independent* work in the sphere of *Communist* education, *organization*, and *mobilization* of the masses". It is to be recalled that in "'Left Wing' Communism, An Infantile Disorder", Lenin gave the Communists the sage advice of a practical revolutionist to "resort to manoeuvres, arrangements, and compromises with the various groups of proletarians, with the various parties of the workers and small proprietors' for the "petty-bourgeois democrats * * * inevitably vacillate between the bourgeoisie and the proletariat, * * * between love for the workers and fear of the proletarian dictatorship". So then, Lenin taught "the proper tactics for the Communists to adopt is to UTILIZE these vacillations" by making "concessions to those elements which are turning towards the proletariat, * * * in addition to demanding a fight against those who turn towards the bourgeoisie". Lenin pointed out that the result of such tactics is the eventual disintegration of the democrats, the isolation of their opportunist leaders, and the winning over of the "best of the workers and the best elements among the petty-bourgeois democrats" into the Communist camp (pp. 56 and 57 of Ex. 21). The 1935 "United Front" tactic of the Communist International follows this tactical advice of Lenin to the letter.

Returning to consideration of the Resolution on the Report of Dimitroff, it is noted that the Resolution points out that "the forms in which the united proletarian front is realized" depend on the conditions and on the concrete situation. In relation to the United States the Resolution postulates that the form to be striven for there is "lasting coalitions in the shape of 'Labor Parties' or 'Workers and Farmers' Parties'" (pp. 27 and 28 of Ex. 47). (It

shall be observed later that the Communist Party of the U. S. A. came out in 1936 for such a Party while rejecting joint support with the Socialists of Roosevelt for certain stated reasons.)

This Resolution, continuing its instructions to the Communists, sets out the permissible extent of joint action with the Socialists. In doing so, it precisely reveals the Congress' continued adherence to the Leninist path leading to the proletarian "seizure of power" from the bourgeoisie. The relevant part of the instructions is as follows (pp. 28 and 29 of Ex. 47):

> "4. Wherever the Social-Democratic leaders, in their efforts to deflect the workers from the struggle in defense of their every-day interests and in order to frustrate the united front, put forward WIDELY ADVERTISED 'Socialist' projects * * * the demagogic nature of such projects must be exposed and the toilers *must be shown the impossibility of bringing about socialism so long as power remains in the hands of the bourgeoisie.* * * *
>
> "5. Joint action with the Social-Democratic Parties and organizations does *not* preclude, but on the contrary, RENDERS STILL MORE NECESSARY the serious and well-founded *criticism* of *reformism*, of *Social-Democracy* as the ideology and practice of class collaboration with the bourgeoisie, and the patient *exposition of the principles and program of Communism* to the Social-Democratic workers.
>
> "While revealing to the masses the meaning of the demagogic arguments advanced by the Right Social-Democratic leaders against the United front * * * the Communists must establish THE CLOSEST COOPERATION WITH THOSE LEFT SOCIAL-DEMOCRATIC WORKERS, FUNCTIONARIES AND ORGANIZATIONS, THAT FIGHT AGAINST THE REFORMISTS POLICY AND ADVOCATE A UNITED FRONT WITH THE COMMUNIST PARTY * * *."
>
> (Inspector's Note: Italics supplied; capitals represent italics in the original.)

Now, Lenin's and Stalin's teachings made clear what the Communist criticisms of the Socialist's reformist theories are and why the Communists maintain that "socialism" cannot be brought about "so long as power remains in the hands of the bourgeoisie". There is no doubt that the "principles and program of Communism" referred to in the foregoing passage are the Marxist-Leninist ideological precepts which have already been reviewed.

This same Resolution reveals its conformance with the Leninist teachings as to what is to be done in a revolutionary situation and as to the ultimate objective of the Communists in the following passage (pp. 30, 31, 36, 37, 38 and 39 of Ex. 47):

> "8. In the circumstances of a POLITICAL CRISIS, when the ruling classes are no longer in a position to cope with the powerful sweep of the mass movement, the Communists must advance FUNDAMENTAL revolutionary slogans (such as, for instance, control of production and the banks, *disbandment of the police force, and its replacement by an armed workers' militia*, etc.), which are directed toward still further shaking the economic and *political power* of the bourgeoisie and increasing the strength of the working class, toward isolating the parties of compromise,[42] and which lead the working masses *right up to the point of the revolutionary seizure of power.*
>
> * * * *
>
> "The Congress emphasizes with particular stress that ONLY THE FURTHER ALL-ROUND CONSOLIDATION OF THE COMMUNIST PARTIES THEMSELVES, the development of their initiative, *the carrying out of a policy based on Marxist-Leninist principles, and the application of correct flexible tactics,*[43] which take into account the concrete situation and the alignment of the class forces, can ensure the mobilization of the widest masses of toilers

42. These parties of compromise include the Social-Democratic parties joined with the Communists in the "United Front".

43. This statement reveals the same fixity of basic strategic objectives and the same flexibility of immediate tactics preached by Lenin as the criterion by which to avoid the pitfall of opportunism.

for the united struggle against fascism, against capitalism.

* * *

"* * * The struggle for the establishment of the united front * * * charges *every* Communist Party to wage an irreconcilable struggle against any tendency to gloss over the differences in *principle* between Communism and reformism, against weakening the criticism of Social-Democracy as the ideology and practice of class collaboration with the bourgeoisie, *against the illusion that it is possible to bring about socialism by peaceful, legal methods,*[44] * * * and against the slightest VACILLATION AT THE MOMENT OF DECISIVE ACTION.

"* * * it must be explained to the workers without fail that such unity (Inspector's Note: with the Social-Democratic Parties) is possible only under certain conditions: * * * under the condition * * * that the necessity of the *revolutionary overthrow of the rule of the bourgeoisie and the establishment of the dictatorship of the proletariat in the form of Soviets*[45] *be recognized,* that support of one's own bourgeoisie in IMPERIALIST WAR be rejected. * * *

* * *

"In the struggle to defend against fascism the bourgeois-democratic liberties[46] and the gains of the toilers, in the struggle to overthrow fascist dictatorship, the revolutionary proletariat prepares its forces, strengthens its fighting contacts with the allies and directs the struggle toward the goal of

44. This is the basic precept of the Social-Democrats. The attack upon it here is indicative of the divergent Communist view.

45. This is exactly the Leninist path to proletarian power.

46. This defense of "bourgeois-democratic liberties" reflects the Communist view that these liberties preserve for them the greatest freedom and scope of action, as was earlier discussed. The 1938 Constitution (Ex. 4) of the Communist Party of the U.S.A. likewise comes out in support of "popular liberties", but not in support of the United States Constitution, as shall be presently set out.

achieving real democracy of the toilers—*Soviet Power.*

"* * * Only the welding of the proletariat into a single mass political army will ensure its victory in the struggle against fascism and *the power of capital* for the dictatorship of the proletariat and the power of the Soviets.

"'THE VICTORY OF REVOLUTION NEVER COMES BY ITSELF. IT HAS TO BE *prepared for* AND WON. AND ONLY A STRONG PROLETARIAN REVOLUTIONARY PARTY CAN PREPARE FOR AND WIN VICTORY' (Stalin)."

(Inspector's Note: Italics supplied; capitals represent italics in the original.)

The next Resolution is a Resolution on the Report of M. Ercoli in relation to the "Tasks of the Communist International in Connection with the Preparations of the Imperialists for a New World War". Very revelatorily, this Resolution endorses the 1928 "Resolution" on war that the Sixth Congress of the Communist International had adopted (Ex. 27). As already discussed, this 1928 "Resolution" is the most outspoken revolutionary document in evidence. The 1935 Resolution under discussion here sets forth (pp. 43 and 44 of Ex. 47):

"On the basis of the *teachings of Marx-Engels-Lenin-Stalin on war,* the Sixth World Congress of the Communist International concretely formulated the tasks of the Communist Parties and the revolutionary proletariat in the struggle against imperialist war. * * * THE SEVENTH WORLD CONGRESS OF THE COMMUNIST INTERNATIONAL, *confirming the decision of the Sixth Congress* ON THE STRUGGLE AGAINST IMPERIALIST WAR, sets the following main tasks before the Communist Parties * * *."

(Inspector's Note: Italics supplied; capitals represent italics in the original.)

This Resolution then restates the Communist creed in case of war—"transformation of the imperialist war into

civil war"—and directs it not only "against the fascist instigators of war", but also "against the bourgeoisie", with the objective being "the overthrow of capitalism," (p. 47 of Ex. 47). It also enjoins all toilers "to work, with all means at their disposal and at any price" in the event of the commencement of a war against the Soviet Union "for the victory of the Red Army over the armies of the imperialists" (p. 48 of Ex. 47).

The foregoing analysis of the official declarations of the Seventh World Congress of the Communist International shows that the pronouncements of that Congress amount to full affirmation of the Communist International's prior advocacy of the overthrow of all bourgeois governments by a forcible revolution and the establishment in their stead of Soviet systems—even though the Resolutions stress the immediate necessity for a conditional temporary alliance with the Social-Democrats as a tactical measure in the struggle against Fascism and the "fascization" of bourgeois "democratic" countries.

The witness, SCHNEIDERMAN, testified to the distribution and circulation of at least the main one of these Resolutions by the Communist Party of the U. S. A. (R. 464). Hence it is found that the "circulation and distribution", the "affiliation", and the "membership" deportation charges are sustained by the evidence relating to this pamphlet.

Cumulatively, the above-discussed individual documents in evidence containing doctrinal utterances of the Communist International, conjoined with the writings of Lenin and Stalin in evidence, serve to establish beyond question that the Communist International held the views proscribed by the Statute during the period of respondent's affiliation with it. It is the conclusion of the Presiding Inspector that cumulatively, they also make out a strong case against the Communist Party of the U. S. A. For they emphasize time and again the internal cohesiveness of the entire world-wide Communist movement and the fact that each affiliated Communist Section owes fealty to the Communist International rather than to the individual Section's "own" bourgeois government.

Lenin, Stalin, and Communist International stress both of these aspects of the Communist "supra-nationalism", pointing out the need for international solidarity amongst the proletariat of all countries to oppose and overcome the

international connections among the bourgeoisie, and the need for unswerving iron discipline within the Communist "vanguard" in order that the proletariat may be successfully led to the "seizure of power" from the bourgeoisie and to the setting up of Soviet systems in all bourgeois countries, which Soviets are to be finally amalgamated into one world Soviet Union.

In this connection, the repeated Communist denunciation of the Second International and the Social-Democrats is directly relevant. The epithet that "Leninism" most frequently hurls at the Social-Democrats is "social-chauvinists". In "State and Revolution" Lenin describes the "social-chauvinism" of the official Socialist parties of the whole world as being "socialism in words, chauvinism in deeds", "characterized by a base, servile, adaptation of the 'leaders of Socialism' to the interests not only of 'their' national bourgeoisie, but also of 'their' state" (p. 5 of Ex. 20). In "'Left Wing' Communism, An Infantile Disorder", Lenin calls the actions of the leaders of the Second International all over the world in justifying the "defense of the fatherland", *i. e.*, their countries, during the World War of 1914-20, "treacherous" and "defense of their own predatory bourgeoisie". He declares that these Socialist leaders continued their treachery "by entering into a coalition with the bourgeoisie of their own country and fighting together with their own bourgeoisie against the revolutionary proletariat of their own country". Lenin terms these actions "desertion to the side of the bourgeoisie against the proletariat" (pp. 23 and 24 of Ex. 21).

In "A Letter to American Workers", Lenin calls these Socialists "scum of international Socialism" and "lackeys" of "bourgeois morality" for placing "the integrity and safety of 'their' fatherland, created by the bourgeoisie, above the interests of the world Socialist revolution". Further, he distinguishes between an improper agreement made by "Socialists" with their native or foreign bourgeoisie "against the workers" and a proper agreement made by the Bolsheviks for the safety of the Russian workers who had defeated their bourgeoisie. He gives an example of such a proper agreement made with one group of bourgeois countries against another group of bourgeois countries for the sake of taking advantage of the contradiction between these opposing groups of bourgeoisie. He points out that the Bolsheviks in Russia had

staked their hopes upon the "international solidarity of the proletariat before the international revolution had completely ripened" and by coming to an agreement with the French to collaborate in repelling the Germans served "the interests of the Russian and the international Socialist Revolution". He explains that this maneuver "strengthened the proletariat and weakened the bourgeoisie of the whole world * * * waiting for the moment when the rapidly growing proletarian revolution in a number of advanced countries had ripened". He then declares that he would not hesitate to come to a similar agreement with the Germans in case of an Anglo-French attack upon Russia, for "such tactics will lighten the task of the Socialist revolution, will hasten its advance, *will weaken the international bourgeoisie,* will strengthen the position of the working class which is conquering it" (pp. 14, 15 and 16 of Ex. 48). This exposition is a good object lesson to illustrate Lenin's teaching that any compromise or maneuver must be utilized that would advance the international proletarian cause—"the war for the overthrow of the international bourgeoisie, a war which is a hundred times more difficult, prolonged and complicated than the most stubborn of ordinary wars between states" (p. 52 of Ex. 21).

Stalin's explication of the internationalism of Leninism has already been set out. It is useful, however, to the discussion here to note that Stalin asserts that the following are fundamental theses of Leninism (pp. 82 and 83 of Ex. 22):

> "* * * (e) the interests of the proletarian movement in the developed countries and of the national liberation movement in the colonies call for the amalgamation of these two forms of the revolutionary movement into a common front against the common enemy, against imperialism.
>
> "(f) The victory of the working class in the developed countries and the liberation of the oppressed peoples from the yoke of imperialism are impossible without the formation and consolidation of a common revolutionary front.
>
> "(g) The formation of a common revolutionary front is impossible unless the proletariat of the op-

> pressor nations renders direct and determined support to the liberation movement of the oppressed peoples against the imperialism of its 'own country' for 'no nation can be free if it oppresses other nations' * * *"

On the basis of these theses Stalin postulates the necessity for "a stubborn, continuous, and determined struggle against the imperialist chauvinism of the "Socialists" of the ruling nations (Great Britain, France, America, Italy, Japan, etc.), who do not want *to fight their imperialist governments,* who do not want to support the struggle of the oppressed peoples in 'their' colonies for emancipation from oppression, for secession". Stalin declares that without such a struggle to "break the fetters" of imperialism and "free these people from the yoke of national oppression" it is impossible "to implant true internationalism and to create that remarkable organization for the collaboration of nations which is called the Union of Soviet Socialist Republics—the living prototype of the future union of nations in a single world economic system". He further states that "without such a struggle it is inconceivable that the proletariat can maintain an independent policy and its class solidarity with the proletariat of the ruling countries in the fight for the overthrow of the common enemy, in the fight for the overthrow of imperialism; without such a struggle, internationalism would be impossible" (pp. 84 and 85 of Ex. 22).

The foregoing shows that "Leninism" preaches that the proletariat (especially its leader, the Communist Party), owes allegiance to the "common front" of the proletariat and of the oppressed peoples of the colonial and dependent countries against their enemies, which are the bourgeoisie of its "own country" and the state power of that bourgeoisie (its "own" bourgeois government), as well as the bourgeoisie and bourgeois governments of all other countries.

Similarly, the "Program" of the Communist International, adhering to the Leninist precepts, condemns each and every one of the Social-Democratic parties for being "loyal to 'its own' bourgeoisie and 'its own' imperialist state and declares that these parties "have lined up in the decisive class battles with the class enemy of the prole-

tariat.'" The Program, consistently with "Leninism" asserts that the "Third, Communist, International, the international organization of the working class, * * * embodies the real *unity* of the revolutionary workers of the whole world". It states further: "In 1919, the Communist International was formed, and for the first time in world history the most advanced strata of the European and American proletariat were really united in the process of practical revolutionary struggle with the proletariat of China and India and with the Negro toilers of Africa and America" (p. 8 of Ex. 5).

The culmination of this internationalist doctrine is revealed in the following meaningful statement in the "Program" (p. 10 of Ex. 5):

> "Standing on the ground of consistent proletarian class struggle and *subordinating* the temporary, partial, group and *national* interests of the proletariat to its lasting, general *international* interests, the Communist International mercilessly exposes all forms of the doctrine of 'class peace' that the reformists have accepted from the bourgeoisie."
>
> (Inspector's Note: Italics supplied.)

This assertion discloses the "Program's" flat rejection on principle of any patriotic attachment to the bourgeois governments in all the various bourgeois countries in the world and its positive assertion that the proletarian international interests are paramount to the proletariat. This same point is shown by the "Program's" declaration that the Social-Democratic Parties, which came out during the war crisis of 1914-1918 "in defense of the imperialist 'fatherland' (*i. e.*, the state organizations of the imperialist bourgeoisie)", thereby acted "in complete violation of the thesis of the Communist Manifesto written by Marx and Engels that the proletariat has no fatherland under capitalism" (p. 22 of Ex. 5).

The "Program's" clear affirmation of the Communist supra-national allegiance is further revealed in its dissertation upon the establishment of the "Dictatorship of the Proletariat" in Russia. In this connection, the "Program" significantly asserts (p. 26 of Ex. 5):

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> "The class struggle, which hitherto was conducted in forms determined by the fact that the proletariat was not in possession of state power, is now being conducted on an enormous and really world scale; *the working class of the world now has its own state—the one and only fatherland of the international proletariat.*"
>
> (Inspector's Note: Italics supplied.)

This postulation that the proletariat in any given bourgeois country owes no loyalty to the government of that particular country because that government is the instrument only of the bourgeoisie, and that the proletariat owes allegiance to the U. S. S. R. because the Union of Soviet Socialist Republics represents the proletariat's supranational "fatherland" and is the prototype of the World Union of Soviet Republics is very important inasmuch as it forms the rational basis for the mandate of the "Program" and the 1928 Resolution on war adopted by the Sixth World Congress of the Communist International, requiring that in the event of a war involving the U. S. S. R. the proletariat in all countries must defend the U. S. S. R. by all means in its power, even against its "own" bourgeois government (p. 66 of Ex. 5; pp. 29 to 33, incl., of Ex. 27), and for the Communist creed calling for conversion of imperialist war into civil war (Ex. 27).

The enormity of the proletarian world revolutionary task to overthrow all bourgeois governments is postulated by the "Program" as requiring a strong and disciplined international organization of the Communist movement. To effectuate the collective will, the "Program" lays down certain organizational essentials in the following important declaration (pp. 84 and 85 of Ex. 5):

> "In order that the revolutionary work and revolutionary action may be co-ordinated and in order that these activities may be guided most successfully, the international proletariat must be bound by *international class discipline*, for which, first of all, it is most important to have the strictest international discipline *in the Communist ranks.*

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> "The international Communist discipline must find expression in the *subordination of the* partial and *local interests* of the movement *to its general and lasting interests* and in *the strict fulfillment, by all members,* of the decisions passed by the leading bodies of the Communist International.
>
> "Unlike the Social-Democratic, Second, International, each section of which submits to the discipline of 'its own' national bourgeoisie and of its 'fatherland', *the Sections of the Communist International submit to only one discipline, viz., international proletarian discipline,* which guarantees victory in the struggle of the world's workers for world proletarian dictatorship." (Inspector's Note: Italics supplied; capitals represent italics in the original.)

The aforestated mandate of the Communist International to the Sections with regard to international discipline is very clear. Moreover, it was the obligatory responsibility of the Sections under the "Constitution" of the world organization (which was set out in the original Opinion (O 7, 8 and 30)) to carry out *unreservedly* all of the decisions of the Communist International. In view of this, and in the face of the Communist Party's dedication in its 1938 Constitution "to the establishment of Socialism according to the scientific principles enunciated by the greatest teachers of mankind, Marx, Engels, *Lenin* and *Stalin, embodied* in the Communist International" (p. 5 of Ex. 4), one would need be devoid of reasoning to fail to conclude that the Communist Party of the U. S. A., admittedly the American Section of the Communist International, advocated the basic Leninist precepts incorporated in the "Program", the "Resolution" on War, and the other pronouncements of the Communist International in evidence. The Communist International in its doctrinal declarations in evidence explicitly and implicitly demanded that its Sections owe allegiance only to it and not to the governments of their bourgeois states. The International further postulated that at such time as there occurs a "revolutionary upsurge" in a particular bourgeois state when "the ruling classes are disorganized, the masses are in a state of revolutionary ferment, * * * the intermediary strata are inclining toward

the proletariat; * * * (and) * * * the masses are ready for action and for sacrifice, the Party of the proletariat is confronted with the task of leading the masses to a *direct attack upon the bourgeois state.* This it does: * * * by organizing mass action * * * This mass action includes: * * * finally the general strike conjointly with *armed insurrection against the state power of the bourgeoisie"* (p. 80 of Ex. 5). Nothing could be plainer than this tactical directive of the Communist International to *each* Communist Party.

It is to be noted that the pronouncements of the Communist International speak in commandatory language in relation to what its various Sections, the Communist Parties, have to do. Instead of using the word "may" in instructing the Sections, these directives use "must"; instead of saying "should" they use obligatory language. This choice of directive words signifying the relationship of a superior to a subordinate, is very marked in certain speeches that Stalin made in 1929 before the American Commission and the Executive Committee of the Communist International dealing with a factional situation which had arisen in the American Communist Party. These speeches show the same superior attitude of the International towards the American Communist Party. This is very significant in view of the above-discussed stated requirements of the Communist International for "international class discipline" and "the subordination of local interests of the movement to the general interests" and the "strict fulfillment by all members of the decisions" of the Communist International.

The pamphlet containing these speeches of Stalin was authenticated by the witness, Schneiderman (Ex. 46; R. 443). In referring to the action of the Communist International in relation to the case of an American Party member, one "Comrade Pepper", Stalin states in his speech before the American Commission of the Communist International: "Twice the Comintern *demanded* Comrade Pepper's return to Moscow" (p. 13 of Ex. 45). In regard to one Lovestone, the then head of the Communist Party of the U. S. A., Stalin mentions that the Presidium of the Executive Committee of the Communist International had made a decision "to withdraw him from America", from which decision this Lovestone had appealed to Stalin, stating that if this decision were rescinded,

he would undertake to comply with a certain directive at which he had previously balked (pp. 16 and 17 of Ex. 45). In his speech, Stalin states that the solution to the factional fight in the American Communist Party was for the leaders of both factions in it to be "summoned and placed at the disposal of the Comintern" and other workers be placed in their stead in the American Party who "are capable of * * * placing the interests and the unity of the Party above the interests of individual groups and their leaders" (p. 19 of Ex. 46). This blunt demand is very illuminative with respect to the relations between the Communist International and its Section in the United States.

In another speech in the pamphlet, delivered before the Presidium of the Executive Committee of the Communist International, Stalin asserts that the factional fight in the American Communist Party has resulted in a declaration by that Party amounting to a "thesis of NON-SUBMISSION to the decisions of the Presidium of the E. C. C. I.". Stalin declares that this course is "insubordination" and "warfare against the Comintern". Here is positive proof that non-compliance with a directive of the Communist International by the American Section was considered to be disloyalty to the Communist International.

Stalin trenchantly asks in this connection: "Can you picture a Communist, not a paper Communist, but a real Communist, avowing loyalty to the Comintern and at the same time refusing to accept responsibility for carrying out the decisions of the Comintern? What sort of loyalty is that? * * * This hypocrisy?" (p. 23 of Ex. 46).

Stalin then speaks of the formal majority that Lovestone had at the time in the American Communist Party and in effect declares that if Lovestone and his faction "attempt to start a fight against the decisions of the Pres[redacted]he Executive Committee of the Comintern", they will find themselves "completely isolated and without their vaunted majority" (p. 31 of Ex. 46). It is revelatory to note that the witness, Schneiderman, testified that Lovestone subsequently lost the support of the majority in the American Communist Party and was expelled therefrom (R 439 and 440).

The absolute paramountcy of the decisions of the Communist International over the Sections is revealed in the following passage from Stalin's second speech delivered

before the Presidium of the Executive Committee of the Communist International (pp. 37 and 38 of Ex. 46):

> "* * * What they (Inspector's Note: the American factionalists) said amounted to this, that since they do not agree with the decision of the Presidium, they cannot submit to that decision and carry it into effect. But only Anarchists, individualists can talk like that, not Bolsheviks, not Leninists, who are obliged to place the will of the collective above their individual will * * * if each of us starts to act according to his own will without reckoning with the will of the collective, we shall never come to any decision; we shall never have any collective will, nor any leadership * * *. Is it not clear that we should never have had any decisions or any collective will, neither in the individual parties, nor in the Comintern, if individuals, and minorities in general, did not submit to the will of the majority, to the will of the higher collective?"

The foregoing patently shows the subordination of the American Communist Party to the Communist International.

In connection with these speeches of Stalin it is parenthetically noted at this point that in them Stalin exposes the revolutionary role of the American Communist Party. He discusses the pressing need to have the factional situation in the American Communist Party at an end, pointing out that the American Communist Party is one of the few Communist Parties in the world, in view of the strength and power of American capitalism, which has a great historical revolutionary task. He states: "I think the moment is not far off when a revolutionary crisis will develop in America. And when a revolutionary crisis develops in America, that will be the beginning of the end of world capitalism as a whole. It is essential that the American Communist Party should be capable of meeting that historical moment fully prepared and of assuming the leadership of the impending class struggle in America * * * we must work in order to forge real revolutionary cadres and a real revolutionary leadership of the proletariat, capable of leading the many millions of the American working class toward the revolutionary class struggles" (pp. 19 and 20 of Ex. 45).

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In addition to the foregoing, there is direct evidence in the record showing that the Communist Party of the U. S. A. recognized its obligatory responsibility to carry out the decisions of the Communist International. A membership book, which was authenticated by all three witnesses as being typical of the books the Communist Party had issued its members in or about 1930 (R 152, 259 and 327; Ex. 18), clearly reveals this. This book contains certain provisions which are headed "Extracts from the Statutes of the Communist Party of the U. S. A.". The parts of these Extracts which are relevant to the point here under discussion are as follows (Ex. 18):

"Par. 3—Membership

"1. A member of the Party can be every person . . . who accepts the *program and statutes of the Communist International* . . . who *subordinates* himself to *all* decisions of the Comintern * * *.

* * *

"Par. 4—The Structure of the Party

"1. *The Communist Party, like all sections of the* Comintern, is built upon the principle of democratic centralism. These principles are:

"c) Acceptance and carrying out of the decisions of the higher Party Committees by the lower, strict Party discipline, and *immediate* and *exact* applications of the *decisions of the Executive Committee of the Communist International* * * *.

"e) * * * After a decision has been adopted at the congress of the Comintern * * * it must be carried out *unconditionally*, even if some of the members or some of the local organizations are not in agreement with the decision.

* * *

"Par. 12—Party Discipline

"1. *The strictest Party discipline is the most solemn duty* of all Party members and *all Party organizations.* The decisions of the C. I. * * * must be promptly carried out. Discussion of questions over which there have been differences must not continue after the decision has been made." (Inspector's Note: Italics supplied.)

The foregoing constitutes such positive proof that the Communist Party of the U. S. A. conformed to the "strict compliance" principle predicated by the Communist International that no credence can be placed in any contention that the Communist Party of the U. S. A. was not obliged to obey all the Leninist precepts adopted by the Communist International, and advocated by it for international application. So, then, the finding is made that all of the evidence bearing upon the revolutionary advocacy of the Communist International applies with like force and effect to the Communist Party of the U. S. A.

Adverting again to the 1933 Thesis of the Executive Committee of the Communist International (Ex. 11), which has already been analyzed, it is to be noted (as set forth in the original Opinion (O 36)) that the Eighth Convention of the Communist Party of the U. S. A., which met in 1934, endorsed that Thesis (Ex. 10). Further, this Convention implemented the Thesis (in accordance with the Thesis' direction) in its "Manifesto and Resolutions" which appear in evidence in a pamphlet entitled "The Way Out" (Ex. 12). The respondent himself identified this pamphlet at the original hearing. These "Manifesto and Resolutions" show not only that the Communist Party of the U. S. A. carried out a specific mandate of the Communist International, but also that in them the Party advocated the overthrow of the Government of the United States by such force and violence as are necessary in an insurrection.

The "Manifesto" and the Resolutions under discussion follow exactly the directive of the 1933 Thesis of the Executive Committee of the Communist International requiring that "the Communist Parties must, with all resoluteness, raise before the masses the task of the revolutionary way out of the crisis of capitalism" (p. 143 of Ex. 11). Further, the Manifesto complies with the postulation that in a situation which had not yet reached the decisive stage for revolution, the Communist Parties must use the tactic of advancing partial slogans tending to tie up the every-day needs of the toilers with the fundamental objective of the Communist International (p. 81 of Ex. 5). Accordingly, the Manifesto ties in the "struggles" for daily bread, for milk for children, against evictions, for unemployment relief and insurance, for wage increases; for the right to organize and strike", "with the question of revolution" (pp. 23 and 24 of Ex. 12).

The "Manifesto" goes on to declare significantly (p. 24 of Ex. 12):

> "Only those can courageously lead and stubbornly organize the fight for the immediate interests of the toiling masses, who know that these things must be won even though it means the destruction of capitalist profits, and *who draw the necessary conclusion that the workers and farmers must consciously prepare to overthrow capitalism.*
>
> "The crisis cannot be solved for the toiling masses until the *rule of Wall Street* has been broken and the rule of the working class has been established. The only way out of the crisis for the toiling masses is the revolutionary way out—the abolition of *capitalist rule* and capitalism, the establishment of the socialist society through the power of a revolutionary workers' government, a *Soviet government.*" (Inspector's Note: Italics supplied.)

The statements in the foregoing quotation regarding the necessity for consciously preparing "to overthrow capitalism" and to break "the rule of Wall Street" and with respect to "the abolition of capitalist rule" and the "establishment of 'a revolutionary workers' government, a Soviet government" iterate the Leninist prescription for the proletarian "seizure of power" from the bourgeoisie.

This "Manifesto" cites the Soviet Union as the prime example of the revolutionary way out, and in this connections states: "The experience of the victorious workers of the Soviet Union *before, during* and after the seizure of power, throw a brilliant light showing the path which *must* be followed in *every* land, the path of Bolshevism, of *Marx, Engels, Lenin and Stalin*" (p. 25 of Ex. 12).

Now, Lenin in "'Left Wing' Communism, An Infantile Disorder" reveals the path the Bolsheviks took *before, during,* and after the seizure of power in Russia. He points out, among other things, that since the February 1917 democratic revolution had overthrown czardom, and established a democratic republic, the Bolsheviks "were put to a new and tremendous task". The Bolsheviks did not enter into any agreements with this newly established imperialist government, "but worked for their overthrow and did over-

throw them. Having taken over political power, this Party did not leave a vestige either of landlord or capitalist property" (p. 23 of Ex. 21). Lenin further points out with respect to the Bolshevik participation in the Constituent Assembly (the Russian Parliament) during the period leading up to the seizure of power that the Bolshevik's participation (Inspector's Note: obstructive and agitational participation) in the Assembly helped the revolutionary proletariat "to PROVE to the backward masses why such parliaments deserve to be dispersed; it HELPS their successful dispersal, and HELPS bourgeois parliamentarism to become 'politically-obsolete'" (p. 43 of Ex. 21). Now the Communist Party's endorsement of this mode of proletarian "seizure of power" for the bourgeoisie does "throw a brilliant light" on where the Party stood with respect to the crucial issue.

The "Manifesto" asserts that "there is no possible way out of the crisis in the interests of the masses except by *breaking the control of the state power now in the hands of the small monopolist capitalist class* * * * there is no way out except by the creation of a revolutionary democracy of the toilers which is at the same time a stern dictatorship against the capitalists and their *agents*. There is no way out except *by seizing* from the capitalists the industries, the banks and all of the economic institutions, and transforming them into the common property of all under the direction of the revolutionary government" (p. 26 of Ex. 12). This is exactly what "Leninism" and the "Program" of the Communist International say.

That the path to the "seizure of power" called for here is the same one outlined by "Leninism" is revealed in the following passage (p. 29 of Ex. 12):

> "* * * The revolutionary way out of the crisis begins with the fight for unemployment insurance, against wage cuts, for wage increases, for relief to the farmers—through demonstrations, strikes, *general strikes, leading up to the seizure of power, to the destruction of capitalism* by a revolutionary workers' government * * *. The Communist Party leads and organizes this struggle, leading toward the only final solution—the establishment of a workers' government." (Inspector's Note: Italics supplied.)

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The "Manifesto" identifies its revolutionary way out with the American revolutionary tradition of 1776, and reminds the American working masses of "how, in a previous crisis, the way out was found by the path of revolution". It asserts that the existing form of government in the United States in 1934 had deprived the masses of people of "all semblance of 'the right to life, liberty and pursuit of happiness' ". So then, here, the "Manifesto" in effect endeavors to justify the Communist advocacy of a forceful revolution against the order of things existing in 1934 (which included the established government) by referring to the American Revolutionary War. The "Manifesto" further expounds that the foundation of a new government in 1934 is "the principle of the Dictatorship of the Proletariat", "the Soviet power" (p. 27 of Ex. 12). The "Manifesto" finally declares that the establishment of a Socialist system in the United States would be the decisive step towards *world* Communism (p. 29 of Ex. 12).

It is palpably evident, then, that the "revolutionary way out" proposed by this "Manifesto" of the Communist Party of the U. S. A. is the same in essence as the revolutionary path prescribed by Leninism leading to the establishment of the "Dictatorship of the Proletariat".

In the first "Resolution" appearing in the pamphlet, "The Way Out", the Communist Party reviews the historical situation existing in the world in 1934 and states, in substance, that the world stands on the brink of revolution and war, and that the "New Deal" of Roosevelt is tantamount to a program of Fascism and war, and that amongst all parties the Communist Party alone, under the conditions of the deepening crisis and the growing revolutionary upsurge of the masses, and in the midst of the "bourgeois and social-Fascist deception of the toiling masses", "unceasingly pointed out that *only the revolutionary overthrow of the capitalist system* and the establishment of proletarian dictatorship is the way out of misery for the overwhelming majority of the population" (p. 43 of Ex. 12). This declaration shows the Resolution's agreement with "Leninism" as to the path to power. The following passage in the Resolution reveals this identity of view even more strikingly (pp. 45, 47 and 48 of Ex. 12):

> "The central task of the Party is to organize and lead the fight against the offensive of the capitalist

class, against developing Fascism and the threat of imperialist war, and to develop these struggles, on the basis of the fight for the *immediate partial demands of the workers, into general class battles for the overthrow of capitalist dictatorship and the setting up of a Soviet government* * * *.

"* * * By our struggle against the danger of imperialist war, *we must prepare to convert the imperialist war into civil war.* The Eighth Congress of the C. P. U. S. A. echoes the call of the Thirteenth Plenum of the E. C. C. I., which 'calls upon all the workers and toilers self-sacrificingly to defend the U. S. S. R. against counter-revolutionary conspiracy of imperialists * * *.'" (Inspector's Note: Italics supplied.)

The "capitalist dictatorship" which the foregoing says is to be overthrown by class battles is unmistakably a reference to the United States government. The statements with respect to preparing to "convert the imperialist war into civil war" and "to defend the U. S. S. R." against the imperialists is unquestionably expressive of the import of the 1928 Resolution on War of the Communist International (Ex. 27).

The "Resolution" under discussion makes its advocacy of the Leninist approach to the "seizure of power" pointedly evident in its closing paragraph, which is as follows (p. 57 of Ex. 12):

"The Communist Party must raise before the toilers of the United States the revolutionary way out of the crisis. All members of the Party must in their day-to-day work, in the fight for the demands of the workers, point out convincingly and insistently that *only* the destruction of the capitalist system, the establishment of the Dictatorship of the Proletariat, of the Soviet power, can free the millions of toilers from the bondage and misery of the capitalist system.

"The United States is most favorable for the establishment of Socialism. Its large-scale concentrated industry and huge proletariat, its accumulated wealth and productive forces with the enor-

mous supplies of raw material, provide the natural basis for a *quick* change in the life and conditions of the country. If the workers will *take power*, they will in a very short time radically improve the life of all the toilers * * *.

"But this tremendous wealth, these gigantic production forces, are locked away from the masses. They are the private property of a small parasitic capitalist class which has closed the factories and locked the warehouses to force growing tribute of profits. This paralysis of the economy in the interests of the profit of the exploiters at the cost of starvation and degradation to the millions is *enforced by the capitalist government with its police, military, courts and jails.*

"There is no way out of the crisis except by breaking the domination and *rule* of the monopolist capitalist class and taking the road pointed out by the victorious working class of the Soviet Union. There is no way out through the quackery of Roosevelt or the policies and practices of social-democracy * * *." (Inspector's Note: Italics supplied.)

It is the considered conclusion of the Presiding Inspector that the foregoing declarations of the Communist Party of the U.S.A. at its Eighth Convention in 1934 indisputably amount to advocacy of the overthrow of the Government of the United States by an insurrection involving such force and violence as are necessary in the process and prove that the Party considered the Leninist precepts to be fully applicable to the United States. The witness, HEWITT, testified to the distribution and circulation of this pamphlet by the Communist Party (R. 149). Hence, this document serves to sustain the deportation charges of "circulation and distribution" and of "membership".

There is one further utterance of the Communist Party in evidence which cumulatively proves the Party's advocacy of the proscribed doctrines. This is an editorial of the Communist Party appearing in its magazine, "The Communist", edition of July 1934, entitled "The Darrow Report", which was identified in the original hearing by the respondent (Ex. 15). This editorial, after discussing a certain Darrow Report and finding that it showed that

capitalist democracy is the rule of monopoly capitalism, concludes with the following paragraph (p. 615 of Ex. 15):

> "There is only one way to a planned economy and emancipation from the rule of monopoly capitalism. This is when the working class under the *leadership of its Party forcibly overthrows capitalism* and establishes the Dictatorship of the Proletariat. Only then can it proceed with the planned, economic, political, and cultural reconstruction of society. The toiling masses of this country can look to the example set by the Russian workers. From the Russian working class we learn that when the working class *captures power, destroys the bourgeois state machinery,* drives out the bourgeoisie, then the revolutionary class, led by the Communist Party, not only itself develops tremendous revolutionary energy but releases all the creative forces of the revolution which were hitherto suppressed. Therefore the road of the Communist Party in America is the only correct road to follow in the complete emancipation of the proletariat and all the oppressed and exploited from the bloody rule of American trusts and monopolies."
>
> (Inspector's Note: Italics supplied.)

The foregoing passage epitomizes the "Program" of the Communist International and the teachings of "Leninism" as applied to the United States, and directly disproves respondent's and the witness, SCHNEIDERMAN's contentions as to the limited extent that the Leninist doctrines applied to this country. This article was circulated in the official magazine of the Communist Party. Accordingly it cumulatively supports the "circulation and distribution" and the "membership" deportation charges.

As previously mentioned, there were submitted in evidence in respondent's behalf a number of official declarations of the Communist Party (Exs. 34 through 44). These include certain of Election Platforms, Resolutions, and Central Committee Reports of the Communist Party, ranging from the year 1932 to the year 1947. It is interesting to note that only one of the documents submitted in respondent's behalf is from the period prior to 1935. All

the others originated after 1935. Before analysing the declarations promulgated after 1935, the Presiding Inspector desires to consider the single document arising prior to that year. This document is an "Election Platform" of the Party for the year 1932 (Ex. 38).

Examination of this Communist Election Platform reveals that the Platform states in a somewhat veiled form the Leninist path to power as the revolutionary way out of the serious economic crisis which, it is administratively noticed, gripped the United States in 1932.

This Platform sets forth that "the Communist Party calls upon the oppressed masses to rally under Communist leadership in the revolutionary struggle to overthrow capitalism and to establish a government in the United States of workers and farmers" (p. 3 of Ex. 38). It contrasts the Communist way out of the crisis with the capitalist way out. It states that the capitalist way out involves the helping of the rich but not the poor; murderous police attacks upon the workers; and intense preparations for new imperialist wars. It declares that the Communist path out of the crisis is the "way of the mass struggles" (p. 9 of Ex. 38). The Platform sets forth certain partial demands having wide popular appeal, and then states that the fight for these demands "is the starting point for the struggle for final victory of the toilers, for the establishment of the workers' and farmers' government in the United States * * * the revolutionary way out of the crisis" (pp. 10 and 11 of Ex. 38). This linking of the partial demands calling for satisfaction of the immediate needs of the masses with the ultimate revolutionary goal is identical with the pre-revolutionary tactical line set out in the pamphlet, "The Way Out" (Ex. 12), and in the "Program" of the Communist International (pp. 81 and 82 of Ex. 5), as already discussed. The Platform asserts what the revolutionary government it advocates could do in the United States. It states that the correctness of its way out of the crisis is "proven by the experience of the Soviet Union" where "the workers seized power in the revolution of 1917" (pp. 10 to 12 incl., of Ex. 38). This Election Platform further calls for support of "A United States of Soviet America", for "a fight for the workers' way", "for the revolutionary way out of the crisis", "for the United States of Soviet America" (p. 16 of Ex. 38). It is apparent then that this

Election Platform advocates the same revolutionary Leninist doctrines which have already been analysed here. It cumulatively supports the "membership" deportation charge.

With regard to the Communist Party document promulgated after 1935 which was placed in evidence in respondent's behalf, it is to be noted that in accordance with the above-discussed "international discipline" of the Communist International, the Communist Party of the U.S.A. was obliged to carry out in relation to the United States the tactical reorientation prescribed in 1935 by the Seventh World Congress of the Communist International. Study of the Communist Party documents in evidence, originating after 1935, reveals that they faithfully implement all the instructions of the Seventh World Congress relevant to bourgeois "democratic" states.

This Seventh World Congress of the Communist International, as aforementioned, directed that the immediate efforts of the Communist Parties be turned towards opposing the impending Fascist menace, and introduced the innovation into international Communist tactics of concentrating on the establishment of a "United Front" with the Social-Democrats and the preservation of the limited "democracy" and freedoms of the bourgeois democratic states against Fascistic inroads—but with the important stipulation that the Communist Parties, while joining in "United Front" activities, continue to work independently of the Social-Democrats towards the Leninist revolutionary objectives.

These post-1935 Communist Party documents follow these tactical instructions to the letter, as the following chronological review of them shows. The three of them that are earliest in point of time are pronouncements of the Party in connection with the Party's Ninth National Convention, which according to a note on the reverse side of the title page of Exhibit 41 was held from June 24 to June 28, 1936. These are: "Democracy or Fascism", a Report delivered to the Convention by the General Secretary of the Party (Ex. 35); An "Election Platform" for the year 1936 ratified at the Convention (Ex. 36); and the "Resolutions" adopted by the Convention (Ex. 41).

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The first of these, the Report entitled "Democracy or Fascism", in its introduction, states that at a meeting of the Central Committee of the Party in November 1935 a policy was adopted "based upon the analysis and conclusions of the Seventh World Congress of the Communist International in which our Party had *actively* participated in shaping". The Report asserts that the Party had applied this policy actively and that its experience "has furnished * * * full proof of the correctness of that policy" (p. 5 of Ex. 35). This statement clearly reveals not only the Party's conformance with the mandates of the Seventh World Congress of the Communist International, but also, its participation in formulating the above-discussed decisions of the Congress. It is therefore no surprise to find the Report concerned mainly with defending the "democracy" and freedom of the bourgeois state existing in the United States against the reactionary forces tending toward fascization of the country in 1936. But at the same time, the Report makes clear the steadfast adherence of the Communist Party to the further Leninist objective of the proletarian "seizure of power" from the bourgeoisie.

The first chapter of the Report is concerned with the world-wide "Struggle against Fascism and to Maintain Peace". It sets forth that the world (in 1936) was "torn between two main directions of development". On the one hand, postulates the Report, are "the forces striving to maintain the rights and living standards of the masses in the midst of capitalist crisis and decay, and to maintain peace". This is "the camp of progress and peace" which finds its "stronghold in the Soviet Union" and its support in "the growing armies of those who would resist fascism and war". On the other hand, states the report, "are the forces of fascism, striving to wipe out popular rights and throw the full burden of the crisis onto the masses, driving toward a new war". This is "the camp of fascism", which includes Hitler, Mussolini, and "in every capitalist country its forces are * * * backed and inspired by the monopolists of capital, and, where not already in power, are preparing with all energy, ruthlessness and demagogy, to seize control of the government". The Report states that in the United States, this fascistic camp "is headed by the dominant leadership of the Republican Party, with its allies of the

Liberty League, Hearst, Black Legion, Ku Klux Klan, Coughlin and others'" (p. 6 of Ex. 35). It is apparent that this exposition iterates the Seventh World Congress' analysis of the world situation in 1935 and exposure of the Fascist menace. It is illuminating to note from the foregoing that in 1936 the Communist Party, applying the Seventh World Congress' analysis to the United States, identified certain groups and individuals in the United States including the Republican Party with the forces of fascism".

The Report makes this point even more clearly in its second chapter in which it deals with "The Fascist Menace in the U.S.A." and the "Issues and Parties in the 1936 Elections". It says that "there are two chief and opposite directions of possible development in American political life in the 1936 elections". It points out that the one direction leading towards "fascism and war" "stems from the most reactionary circles of finance capital, Wall Street", and charges that among the fundamental objectives of this reactionary element in America in 1936 are the following: "to seize control of all governmental machinery, moving toward a full-fledged fascist regime, in 'American' and 'constitutional' ways", and to "develop extreme jingoistic nationalist moods among the masses; drive towards war under cover of 'American isolation' and 'neutrality'; support to and alliance with Hitler and other Fascists preparing the new world war".

It asserts that the other direction of possible development in America leads toward a liberal set of fundamental aims which the Report sets out and which include raising the living standards of the masses; extension of social and labor legislation; curbing the "usurped power of the Supreme Court"; maintenance and extension of "*democratic rights and civil liberties*"; *abolition of the use of legal machinery to suppress the people's movements;* extension of popular control over government; the restoration of "control of the government to representatives of the people's organizations, *through a broad people's* front"; and the uniting of all pro-peace forces in the world' "to keep America out of war by keeping war out of the world" (pp. 9 and 10 of Ex. 35).

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It is apparent that the foregoing follows the mandate of the Seventh World Congress to oppose the fascistic elements; to support the limited "democracy" and freedoms of the bourgeois democratic state against Fascist inroads; to endeavor to establish a "united front" of the proletariat; and to attempt to prevent any war of aggression against the Soviet Union from commencing.

The Report, continuing, points out in relation to the 1936 elections that "the Republican Party * * * is unquestionably representing the full reactionary program". It asserts that therefore "the Communist Party declares without qualification that the Landon-Hearst-Wall Street ticket is the chief enemy of the liberties, peace, and prosperity of the American people. Its victory would carry our country a long way on the road to fascism and war" (p. 10 of Ex. 35). Here the Report follows the lead of the Seventh World Congress by concentrating its principal fire on the "Fascist" menace in the United States.

The Report goes on to declare that "Roosevelt and his administration are trying to pursue a middle course between these two opposite fundamental directions of policy", set out above. It asserts that Roosevelt attempts to keep mass support by making small concessions to the needs of the people, but at the same time retreats from his earlier liberal cause "before the offensive of reaction" (p. 11 of Ex. 35).

It is at this point that the Report reveals the Party's continued loyalty to the further objective, the proletarian "seize of power" from the bourgeoisie in the manner prescribed by Leninism, beyond the immediate defense of bourgeois liberties against fascism and the immediate "United Front" tactic, in the following significant passages (p. 11 of Ex. 35):

> "The Communist Party declares that it is a fatal mistake to depend on Roosevelt to check the attacks of Wall Street, or to advance the fundamental interests and demands of the masses of the people.
>
> "Where, then, can the people turn to find a protection against the reactionary forces that assail them?
>
> "With full knowledge that *the great majority are not yet prepared to turn to socialism, as represented*

either by the Socialist Party[47] or *the Communist Party*, we Communists come forward with an *immediate* program which the masses are ready to support to point out the path along which the people can maintain and advance their fundamental interests and rights. * * *

"*This is not a program of revolutionary overthrow of capitalism.* It can be realized with the framework of the present economic system by a people's government backed by the organized masses, determined to fight to keep Wall Street and its fascism out of power."

(Inspector's Note: Italics supplied.)

Here the Report frankly admits that the "liberal program" it puts forth "is not a program of revolutionary overthrow of capitalism", that a program of "revolutionary overthrow of capitalism", such as that advocated by the Socialist Party or the Communist Party cannot yet be put forth because "the great majority are not yet prepared to turn to socialism". It is to be noted from the Leninist teachings that one of the pre-conditions for the proletarian revolution is the readiness of the proletariat, and the support or neutrality of the non-proletarian masses, for the insurrection. So, therefore, for the time being in 1936, the Communist Party was ready to advocate a "liberal" program defending "democratic rights and civil liberties" and the "abolition of the use of legal machinery to suppress the people's movements" (i.e. strikes, etc.)—which would enlist mass support for a "people's government" to stop the fascistic elements in American life from getting into power. Later on, as "Leninism" teaches, such a "people's government" would lose the support of the masses because the Socialists and Liberals running it would "reveal by their deeds how they have fooled themselves and how they are fooling the workers" (p. 88 of Ex. 21). Then, because the "ills of capitalism are incurable", according to the Communist view, the disappointment of the masses in the Socialists and Liberals would result in the "bank-

47. It is to be recalled that the Communists declare that the Socialist Party's program is illusory and cannot lead to the communal society.

ruptcy" of these non-revolutionary leaders and the moment would be brought close at hand "when ON THE BASIS of the disappointment of the majority of the workers in the * * * (Socialists and Laborites) * * * it will be possible with serious chance of success to overthrow the government of the * * * (Socialists and Laborites) at once" (p. 67 of Ex. 21). Then, having chosen the "proper moment" "when the disintegration among these 'pillars of the sacred right of private property' is at its height" the Communists would be able, by leading "a determined attack of the proletariat, to defeat them all and capture political power" (p. 76 of Ex. 21). This is the supreme tactical lesson that Lenin teaches in relation to the usefulness to the Communists of having a Labor or Socialist government come into office in the bourgeois "democratic" State.

So, then, it is clear what the Report means when it states that "Lenin long ago taught us that * * * doctrinaire policies (Inspector's Note: i.e. "left wing" inflexible tactics) are not revolutionary. He taught us when, how, under what conditions, Communists could not only vote for but even enter into alliances with bourgeois candidates and parties—as against a threatening attack of overwhelming reactionary forces". Lenin taught both that the consideration of advancement towards the proletarian "seizure of power" from the bourgeoisie is paramount in determining whether a particular maneuver or compromise should be undertaken by the Communists and that "absolutely worthless are those political leaders of the revolutionary class who are unable 'to tack, manoeuvre and compromise' in order to avoid an obviously disadvantageous battle" (p. 59 of Ex. 21).

The Report makes it clear that the issue in the 1936 elections was "Democracy or Fascism" and not socialism, and points out that "we must declare Roosevelt's policies as not socialism, nor a step to socialism" (p. 17 of Ex. 35). The Report explains that the workers are interested in the matter of "which of two bourgeois parties shall hold power, when one of them is reactionary, *desires to wipe out democratic rights and social legislation*, while the other in some degree defends these progressive measures achieved under capitalism." But at the same time, "in order to have an alliance with the liberal bourgeoisie against the

reactionaries, to preserve democratic rights, it is necessary for the workers and their more permanent allies (farmers and impoverished city middle classes) to have their own independent party, *which at the same time prepares and conducts the struggle towards socialism. The two sides of the struggle must be developed together,* or both are lost in a swamp of *opportunist confusion* or a *desert of sectarianism.*" In other words, unless the "United Front" party both advances toward the proletarian "seizure of power" from the bourgeoisie and enlists mass support, it becomes an opportunist or sectarian movement.

The Seventh World Congress made it clear in its Resolutions that the *sectarianism* referred to above (which Lenin shows in "'Left-Wing' Communism, An Infantile Disorder" to be faulty Communist tactics because the putting forth of doctrinaire Communist slogans divorced from the every day needs of the workers tends to alienate the masses) "retarded the growth of Communist Parties" and so had to be avoided because it "hindered the cause of winning over the wide masses of the proletariat to the side of the Communist Parties" (p. 36 of Ex. 47). The Seventh World Congress also directed that "while carrying out a most energetic struggle to root out all vestiges of sectarianism, which at the present time is a most serious obstacle to the pursuing of a real mass Bolshevik policy by the Communist Parties, the Communists must increase their vigilance in guarding against RIGHT OPPORTUNISM, * * * bearing in mind that the RIGHT DANGER WILL GROW as the tactics of the united front are widely applied" (p. 37 of Ex. 47). It is therefore evident that the Report effectuates these instructions of the Seventh World Congress in relation to the "opportunist" and "sectarian" dangers to be avoided in the "struggle towards socialism".

In this connection, the instructions of the Seventh World Congress as to how the tactics of the "United Front" were to be applied are significant in view of the Report's postulation that the struggle towards socialism is to be made through an independent party in the United States. The Resolution of the Seventh World Congress charged that in carrying out the tactics of the "United Front" every Communist Party * * * (must) * * * wage an irreconcilable struggle against any tendency to gloss over the differences

in principles between Communism and reformism, against weakening the criticism of Social-Democracy as the ideology and practice of class collaboration with the bourgeoisie, against the illusion that it is possible to bring about socialism by peaceful legal methods * * *" (p. 37 of Ex. 47). The Congress further stipulated that the Communist Parties, endeavor to establish the "single mass political party of the working class" on the *conditions* of "complete independence from the bourgeoisie" and "the necessity of the revolutionary overthrow of the rule of the bourgeoisie and the establishment of the dictatorship of the proletariat be recognized". These instructions reveal how the opportunist and sectarian dangers are to be avoided by the Communist Parties in applying the "United Front" tactic.

The Resolution states that at the same time as the Communist Party campaigns on behalf of the program of the People's Front, the Party "will carry on a mass campaign of education, on a scale never before attained, to teach the broad millions the meaning of socialism, of the *working class revolution*, of the *full Communist program* which is the only final solution of the problems created for the population by a dying capitalist system (pp. 14 and 15 of Ex. 35).

The following passages reveal that the "full Communist program" referred to here is the proletarian revolution (p. 18 of Ex. 35)":

> "* * * We Communists, throwing our lot in with the Farmer-Labor Party movement, agree to fight for the road of progress under capitalism, together with those who are not adherents of socialism as we are; while at the same time we point out that the only final guarantee of progress *is to abolish capitalism and move to socialism.*
>
> "Thus, we conclude that the direct issue of the 1936 elections is not socialism or capitalism but rather democracy or fascism. At the same time we emphasize, and will always emphasize, that a consistent struggle for democracy and progress *leads* inevitably, and in the not distant future, to the socialist *revolution.*"

(Inspector's Note: Italics supplied.)

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That the Communist Party looks to the farming class (the American equivalent of the peasant) as the necessary ally of the proletariat in the forthcoming proletarian revolution is clear from the following declaration (p. 27 of Ex. 35):

> "Farmers constitute the largest and most important group which must be won to alliance with the labor movement. To do this requires that the labor movement take up and advance the demands of the farmers which are not inconsistent with the interests of the working class. That is why the Communist Party * * * will try to win the farmers to support its ultimate program of socialization of agriculture * * *"

With respect to the discipline of the Party, the Report declares that the "Communist Party unity is based on the teachings of our great leaders Lenin and Stalin" and affirms that the principle which underlines the unity and discipline of the Party, as stated by Stalin, involves the requirement that after a decision has been made, it binds all in the Party (pp. 37 and 38 of Ex. 35).

Then in closing, the Report clearly discloses the Party's exact conformance to the Leninist prescription for the proletarian "seizure of power" from the bourgeoisie in the following words (p. 42 of Ex. 35):

> "We are going into the 1936 election campaign to win the masses to the people's front against reaction, fascism, and war. Our program is directed to maintain peace, and to advance the economic interests and democratic rights of the workers, farmers, and impoverished middle classes.
>
> "This is a fight for liberty for the masses of the people. *We are the party of socialism, of the proletarian revolution, of Soviet power* * * * socialism will come out of life, out of the *class struggle*. Only by rousing and organizing millions of people in the fight for *liberty* can we bring these millions to the fight for socialism; only that Party which is the vanguard of millions in their first struggles *will lead these millions to the final struggle of the socialist revolution*. Our slogan is the slogan of Lenin: 'Through liberty to Socialism'".
>
> (Inspector's Note: Italics supplied.)

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As Lenin pointed out, the moment is ripe for proletarian revolution only when all the class forces in the given society are aligned in such a way that the battle has fully matured. One requirement is that among the proletariat, counting "in the millions and ten millions" "a mass sentiment in favour of supporting the most determined supremely bold, revolutionary action against the bourgeoisie has arisen and begun vigorously to grow" (p. 75 of Ex. 21). This Leninist dictum explains the need for the vanguard's "rousing and organizing millions of people" so that it may lead them to "the final struggle of the socialist revolution".

It is the considered conclusion of the Presiding Inspector that the Report under discussion advocates the overthrow of the "bourgeois" government of the United States by an insurrection involving such force and violence as are necessary in the process—not, however, as of the date in 1936 that the Report was delivered, but as of a date "in the not distant future" when the objective conditions for revolution prescribed by "Leninism" have matured.

This conclusion is the thoughtful determination of the Presiding Inspector—despite the fact that the Report states the following (p. 42 of Ex. 35):

> "The Communist Party must use the opportunity of this election campaign to smash once and for all the superstition, which has been embodied in a maze of court decisions having the force of law, that our party is an advocate of force and violence, that it is subject to laws (Federal immigration laws, state 'criminal syndicalism' laws directed against such advocacy. The Communist Party is not a *conspirative organization, it is an open revolutionary Party, continuing the traditions of 1776 and 1861;* it is the only organization that is really entitled by its program and work to designate itself as 'sons and daughters of the American revolution'. Communists are not anarchists, not terrorists. The Communist Party is a legal party and defends its legality. Prohibition of advocacy of force and violence does not apply to the Communist Party; * * *"

(Inspector's Note: Italics supplied.)

As Lenin points out in his writings in evidence there is a Communist distinction drawn between "democracy" and

"democracy"—"formal" bourgeois "democracy" and "real" proletarian "democracy"; there are "agreements" and "agreements"—improper "agreements" or opportunist compromising with the bourgeoisie and proper "agreements" of Bolshevik compromising against the bourgeoisie. So likewise, in the above-quoted passage, a distinction is drawn between "advocacy of force and violence" and "advocacy of force and violence"—anarchistic advocacy of *individual* force and violence as an end in itself, in order to achieve "abstract" liberty from the State and Communist advocacy of organized and centrally directed force and violence for the express purpose of "freeing" the wage-slaving proletariat from the capitalist yoke operating through the instrumentalities of the bourgeois state and establishing a centralized State force—the "Dictatorship of the Proletariat"—directed against the bourgeoisie. So, likewise, there appears to be a distinction drawn here between "conspirative organizations" and "conspirative organizations"—the intrigues of, say, a military cabal to overthrow a dictator in "cloak and dagger" style and the Communist organizing of "legal" work in Parliaments to disrupt parliamentarism at the crucial hour and of "illegal" work among the masses to develop strikes for economic objectives into strikes for political objectives, then into a general political strike, and finally into an armed uprising against the state power of the bourgeoisie. These Communist distinctions (which are essentially *without* any difference, when boiled down to essentials, in relation to the crucial issue in this case) are clearly revealed in the "Program" of the Communist International. The "Program", at the point where it analyses the theoretical differences between "Anarchism" and "Revolutionary Syndicalism" (which the "Program" terms "ideologies among the working class inimical to Communism") on the one hand, and "Communism" on the other, sets forth (pp. 73, 74 and 76 of Ex. 5):

> "ANARCHISM * * * denies the necessity for wide centralized and disciplined proletarian organizations and thus leaves the proletariat powerless before the powerful organizations[48] of capital. By its advocacy of *individual* terror, it distracts the

48. These organizations include the armed forces and police of the bourgeois state, in the Communist view.

proletariat from the methods of mass organization and mass struggle. By *repudiating the dictatorship of the proletariat* in the name of 'abstract' liberty, anarchism deprives the proletariat of *its most important and sharpest weapon against the bourgeoisie, its armies, and all its* organs of repression[49] • • •

"'REVOLUTIONARY' SYNDICALISM • • • by its repudiation of political struggle (particularly of *revolutionary syndicalism*) *and* of the *revolutionary dictatorship of the proletariat,* by its advocacy of the craft decentralization of the labor movement generally and of the trade union movement in particular, by its repudiation of the need for a proletarian party, *and of the necessity of insurrection,* and by its exaggeration of the importance of the general strike (the 'folded-arms tactics'[50]), like anarchism, hinders the revolutionization of the masses of the workers wherever it has influence • • •

"All these tendencies take a common stand with SOCIAL-DEMOCRACY, the principal enemy of the proletarian revolution, on the fundamental political issue, viz., THE QUESTION OF THE DICTATORSHIP OF THE PROLETARIAT. • • •

• • • •

"Standing out against all these tendencies is PROLETARIAN COMMUNISM. The powerful ideology of the international working class differs from all these tendencies • • • in that • • • it conducts a THEORETICAL AND PRACTICAL REVOLUTIONARY STRUGGLE FOR THE DICTATORSHIP OF THE PROLETARIAT, AND IN THE STRUGGLE APPLIES *all forms* OF *proletarian* MASS ACTION."

(Inspectors Note: Italics supplied; capitals represent italics in the original.)

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49. What the "Program" says here in effect is that the "Dictatorship of the Proletariat" is the proletariat's "most important and sharpest weapon" against the bourgeoisie's armies and police.

50. The "Program" does not reject the principle of the general strike here, but rather criticizes the passivity of stopping with it, instead of proceeding ahead with the insurrection.

In this connection, it is illuminating to note that the speech of the General Secretary of the Communist Party of the U.S.A. which appears in the same pamphlet as the Report under discussion, contains the following unlimited endorsement of strikes (p. 47 of Ex. 35):

> "The Communist Party is not stirring up strikes. The Communist Party is helping in every way possible to organize the workers. The Communist Party will do everything to help the workers use their organizations to get better wages, shorter hours, better working conditions; and when there is no other way, when the capitalists refuse to deal with the workers and try to break up their organizations, then the workers have the right to strike. That is a fundamental American right which the American workers will never surrender and the Communists will advise and help the workers of America to preserve their right to strike *under all* circumstances and to use it whenever it becomes necessary."
>
> (Inspector's Note: Italics supplied.)

The endorsement of the right to strike for betterment of wages and conditions is, per se, well and good. However, the declaration here that the right to strike under *all* circumstances must be preserved is ominously significant in view of the Leninist teaching regarding the linking up of the every-day needs of the toilers with the fundamental Communist objective, and particularly in view of the Leninist prescription for mass action incorporated into the "Program" of the Communist International: "a combination of strikes and demonstrations; a combination of strikes and armed demonstrations, and finally, the general strike conjointly with armed insurrection against the state power of the bourgeoisie" (p. 80 of Ex. 5).

If this declaration in the Report here under discussion that the Communist Party is not an advocate of force and violence is not merely a sophistic play upon words, as the Presiding Inspector believes it is, the statement must be rejected because the overwhelming weight of evidence is against it. With respect to a correlated statement appearing in the Constitution that the Communist Party adopted in 1938 (Ex. 4), the determination of the Presiding In-

spector is the same. This point is further discussed below in relation to the Constitution.

It is the finding of the Presiding Inspector that the Report in question constitutes cumulative evidence establishing the validity of the "membership" deportation charge.

Even though the Report projects its advocacy of the proscribed doctrine into what it terms the "not too distant future", rather than the immediate present of 1936, it is still within the statutory ban. For, the Statute upon which the deportation charges are based does not distinguish between advocacy of the immediate use of force and violence and advocacy of the use of force and violence at a contemplated future moment when the objective conditions for revolutionary action have matured.

The next document to be considered, the Resolutions adopted by the Ninth National Convention of the Communist Party in 1936, which include a Resolution on the Report which has just been reviewed, constitutes even stronger evidence to support the conclusion that the Communist Party advocated the doctrines proscribed by the Statute (Ex. 41).

The first Resolution in the pamphlet, which was adopted on the basis of the above-discussed Report, iterates the analysis of the world situation, given by the Seventh World Congress and by the Report. It states that the world is tending to go in two opposing directions: towards Fascism, on the one hand, and towards "progress and peace", on the other. It repeats the Report's statement to the effect that the "offensive of capitalist reaction in the United States" is advancing towards Fascism "under the cover of democracy and the preservation of the Constitution" (pp. 5 and 6 of Ex. 41).

The Resolution notes that business conditions in the United States had improved in 1936, and asserts that the "improvement in business, chiefly improvement in the profits of the monopolies at the expense of the toilers, may continue for a while until overtaken by a new crash" (p. 9 of Ex. 41). The Resolution then continues, in a significant vein, as follows (p. 9 of Ex. 41):

> "* * * But the capitalist system cannot and will not get out of the state of general crisis. Only the proletarian Socialist revolution, *by overthrowing the*

> *rule of the capitalist class and establishing a Soviet government*, will do away with the crisis and insecurity, will do away with the intolerable conditions of capitalist decline and decay. It will establish a socialist system of society as in the Soviet Union * * *"

(Inspector's Note: Italics supplied.)

This positing of the overthrow of capitalist rule and the establishment of a Soviet government exactly follows the Leninist teachings.

The Communists' looking ahead beyond the establishment of a popular joint front with the Socialists to the further Leninist objective is revealed in the following passage (pp. 11 and 12 of Ex. 41):

> "Our main *immediate* political task * * * is to win the masses * * * for the Farmer-Labor Party. In carrying out this task the Communist Party * * * while systematically educating the masses to an understanding that *only the abolition of the capitalist mode of production* will wipe out the domination of the monopolies in the sphere of national credit and finances, * * * will propose and support every practical measure that tends to weaken the monopolies. Norman Thomas' criticism of the Communist position on this question is reformist.[51] It attempts to substitute the *illusion of socialism without the Socialist revolution* for tangible mass struggle against the monopolies today—the only means of improving the conditions of the masses and of preparing them for the revolutionary struggle for socialism. Furthermore, the struggle for the Farmer-Labor Party and the election of the Farmer-Labor governments (local, state and federal), and the *organized readiness* of the toiling masses to back these governments to the limit, constitute the only way of breaking the stronghold of the monopolies upon the economic and political life of the country; that such struggles will

51. Administrative notice is taken of the fact that Norman Thomas was the leader of the Socialists in the United States in 1936. This attack on reformism carries out the Seventh World Congress' mandate to point out the differences between Communism and reformism (p. 37 of Ex. 47)

create the favorable conditions[52] for *the overthrow of capitalist rule altogether, the establishment of Soviet power* and the building of Socialism."

(Inspector's Note: Italics supplied.)

This Resolution makes it clear that in the 1936 elections the issue was not between "capitalism or socialism", but between "progress or reaction, fascism or democracy". The Resolution says that Roosevelt was trying to steer a middle course between these two sides and that "under no circumstances" can American labor and all progressive forces "afford to make this middle course their own". For, the Resolution states, "there can be no middle course between these two *when the issue becomes the victory of the Socialist revolution or the continuation of capitalism.* When this becomes the issue, when the Socialist revolution is on the order of the day, a so-called 'middle course' becomes the most dangerous enemy of socialism and of the working class". The Resolution declares that "the only correct policy for the working class is the one of independent political action in alliance with the toiling farmers, Negroes and middle classes. This means a policy of complete separation from both capitalist parties, Republican and Democratic, the independent organization of labor and its allies and consistent class struggle on the economic and political fields". Then the Resolution trenchantly observes (p. 17 of Ex. 41):

> "* * * (This) * * * means the utmost development of the united front of the working class and its organizations and the building up of a powerful People's Front—A Farmer-Labor Party—as a coalition of the working class, the toiling farmers, Negroes, and middle classes against capitalist reaction, fascism and war. This and only this will mobilize the masses into an effective barrier to reaction and fascism and will thus create the conditions for *higher* forms of struggle—*for the Socialist revolution, Soviet power* and socialism."

(Inspector's note: Italics supplied.)

52. According to the Leninist ideology this should read *preconditions*.

The foregoing clearly establishes the Resolutions' implementation of the mandate of the Seventh World Congress of the Communist International, and adherence to the Leninist approach to the proletarian (which the Resolution here terms "Socialist") revolution.

That the "conditions" referred to above in the Resolution are "preconditions" for the proletarian revolution is revealed in the Resolution's summation of its tasks in the building up of the People's Front. The Resolution sets forth (p. 37 of Ex. 41):

> "* * * BY GETTING HOLD OF THESE TASKS WE SHALL BUILD THE IMPREGNABLE RESISTANCE OF THE MASSES AGAINST THE OFFENSIVE OF REACTION AND WILL CREATE THE *prerequisites* FOR THE *next* AND *higher stage* OF STRUGGLE—*the overthrow of capitalism and the building of socialism* through Soviet power. These are the great historic tasks confronting the Communist Party and every Communist in the United States. With boundless loyalty to our Party and to the *great principles* for which it stands, in the spirit of self-sacrifice and courage as taught us by Dimitroff—forward to struggle!"

(Inspector's Note: Italics supplied; capitals represent italics in the original.)

In the next Resolution in the pamphlet, the Communist Party evinces its unchanged fidelity to the Communist International and to "Leninism". This Resolution deals with the task of the Communist Party to keep the United States out of imperialist war. It states that this task requires fighting to curb "the fascist instigators of war" (p. 40 of Ex. 41), and to support in every possible way "the peace policies of the Soviet Union—the strongest force for peace" (pp. 41 and 42 of Ex. 41). In this connection, the Resolution significantly asserts (p. 47 of Ex. 41):

> "While fighting for this peace policy, the Communist Party will support every practical measure that leads in the direction of maintaining peace, always seeking to win the American masses to the struggle for a genuine and consistent *proletarian*

policy of peace, to independent struggle for it, and *to the revolutionary positions of Leninism on the struggle against war as embodied in the decisions of the Sixth and Seventh Congresses of the Communist International* • • •"

(Inspector's Note: Italics supplied.)

It is to be recalled that the "revolutionary positions of Leninism on the struggle against war" embodied in the decisions of the Sixth Congress of the Communist International are incorporated in the Resolution entitled "The Struggle Against Imperialist War and the Tasks of The Communists" (Ex. 27), which has been analysed and found to be the most forthright revolutionary document in evidence. It is further to be noted that the Seventh World Congress endorsed this 1928 Resolution on war. Now here, the Resolution under discussion of the Communist Party declares its adherence to the very same principles. These principles involved a struggle *against* imperialist and anti-Soviet Union wars, but a struggle to foster direct proletarian revolt, and the conversion of imperialist and anti-Soviet wars into civil wars, for the overthrow of the bourgeoisie.

The Communist Party Resolution under discussion iterates its endorsement of the Communist International's 1928 Resolution on war in its following closing statement (p. 53 of Ex. 41):

"While carrying on the daily practical and political tasks as outlined above (Inspector's Note: in the Resolution), the Communists must systematically educate the masses to the *Marxist-Leninist position on war as embodied in the thesis of the Sixth World Congress of the Communist International and in the resolution of its Seventh Congress.*"

(Inspector's Note: Italics supplied.)

This repeated endorsement of the Communist International's 1928 Resolution on War constitutes clear proof that the Communist Party in 1936 advocated the overthrow of the bourgeois government in the United States by means of an insurrection—a civil war—involving whatever force and violence were necessary in the process, in order to

establish a "Dictatorship of the Proletariat". Accordingly, it is found that these Resolutions strongly support the "membership" deportation charge.

The next document in evidence to be considered is the 1936 Communist Party Elections Platform (Ex. 36). When placed against the background of the Seventh World Congress' instructions and the Report to, and the Resolutions of, the Ninth Convention of the Party which have been reviewed here, the Election Platform shows the same full implementation of the mandate of the Seventh World Congress and the same looking ahead to the proletarian revolution. The Platform asserts that "Democracy or fascism, progress or reaction" "is the central issue of 1936" (p. 4 of Ex. 36) and that "the chief aim of the Communist Party today is to defeat the Landon-Hearst-Liberty League reaction, to defeat the forces of Wall Street" (p. 6 of Ex. 36). The platform champions the progressive measures that have popular support, among which are "*the unrestricted* freedom of speech, press, radio and assembly and the *right* to organize and *strike*". It calls upon the people "to safeguard these traditional liberties" (p. 10 of Ex. 36). What this amounts to is a carrying out of the Seventh World Congress' instructions to concentrate on the defense of the limited "democracy" and freedoms of the bourgeois democratic state against "fascistic" reactionary encroachments. The Platform then repeats, in the same tenor as the Communist Party Report (Ex. 35), that the measures it advocates present "the life-needs of the majority of the workers, farmers, and middle classes today. These demands can be won even under the present capitalist system. This is being conclusively proved by the victories of the People's Front in France" (pp. 12 and 13 of Ex. 36). But then the Platform gives voice to the further purpose behind the Communist Party's advocacy of these liberal measures, in the following passages (p. 13 of Ex. 36):

> "The fight for those demands will organize and strenghten the people. It will give them deeper political experience and understanding. *It will prepare them for the great decisions to come* when it will be necessary to move forward to *Socialism*.
>
> "Today the immediate issue is democracy or fascism. But the consistent fight for democracy in the conditions of declining capitalism will *finally bring us* to the necessary choice *of the socialist path*.

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"* * * The whole nation suffers, because capitalism is breaking down, because profits are the first law and are put above human needs—and the capitalist *rulers* are turning to fascism and war.

"*The Communist Party prepares the people to bring an end to this crucifixion of humanity.* Our economy must be *taken* from the incompetent and greedy hands of Wall Street. It must be made the common property of the whole people. * * * This will be socialism. * * *

"Reactionaries of all shades cry out against socialism. They say it is revolutionary. True, the change to socialism will be revolutionary; but since when is revolution un-American? On the contrary, revolution is the proudest tradition of our people who have always been among the most revolutionary peoples of the world.

"Communism is Twentieth Century Americanism. The Communist Party continues the traditions of 1776, of the birth of our country, of the revolutionary Lincoln, who led the historic struggle that preserved our nation * * *"

(Inspector's Note: Italics supplied.)

This identification of the proletarian (socialist) revolution advocated by the Communist Party with the revolutionary traditions of the United States follows the tenor of Lenin's "A Letter to American Workers" (Ex. 48). Further, as shall be more fully discussed later, it implements an instruction of the Seventh World Congress (p. 33 of Ex. 47). Apparently the Communist view in 1936 was that the revolution against "wage slavery" had moral and historical justification (even though it lacks legal sanction). The connecting of the proletarian revolution advocated by the Party with the War of Independence (like the respondent's comparison of the Communist's advocacy of the doctrine of "conversion of imperialist war into civil war" with the action of the Allied governments in World War II in calling for civil war in the Axis countries (0 61)) tends to show the Communists' contemplation of the use of necessary force and violence in the armed rebellion led by the proletariat to be undertaken when the objective

situation in the country becomes ripe for revolutionary action. It is the determination of the Presiding Inspector that this document cumulatively supports the "membership" deportation charge.

The next document in evidence submitted in behalf of the respondent is a Report entitled "The Communists in the People's Front", delivered in 1937 by the General Secretary of the Party to a Plenary Meeting of the Central Committee of the Communist Party (Ex. 37). This document, too, while mainly concerned with the immediate task of the "People's Front" against the fascistic inroads on the democracy and freedoms of the bourgeois state, furnishes clear proof that in 1937 the Communist Party was anticipating the further task of the Leninist approach to the proletarian revolution.

The Report, in its introduction, asserts that "it is upon our still numerically small Party that responsibility rests in the first place to ensure the halting of the forces of reaction, fascism, and war" (p. 9 of Ex. 37), and that the world questions of importance "have been fully and correctly dealt with * * * by the speeches and articles of our *International leadership*, in the first place of Comrade *Dimitroff*, that have been transmitted regularly through the Daily Worker" (p. 10 of Ex. 37).

The Report discusses at length the main consideration relating to the problem of establishing a national Farmer-Labor Party in the United States, and in that connection makes the point that "the fullest defense of even *the limited and undeveloped democracy of today in America* and of its fruits in the cultural and material status of the population, *coincides fully with the most direct and least difficult path to socialism*". It goes on to say that the "broadening out of the approach to building the People's Front", which the Report outlines, does not "change in any fundamental way our conception of the Farmer-Labor Party *as we elaborated it during and after the Seventh World Congress*" (p. 29 of Ex. 37). This statement clearly shows that this Report implements the Seventh World Congress' decisions.

The Report criticises Norman Thomas, the leader of the Socialist Party in the United States, for his denial that the People's Front "has aided education for socialism" while admitting that the People's Front has "stopped" the

progress of fascism here, and for his demand for "the immediate 'transition' to Socialism", "before he has even decided to join the People's Front to stop Fascism" (p. 43 of Ex. 37). In this connection, the Report states that "the People's Front program is not socialism. It has the great merit of making no pretensions to that effect. It is openly and frankly a joint platform of non-Socialists together with Socialists. But the realization of this program creates the most favorable conditions for gathering and *organizing the forces of* socialism. * * * But Thomas wants the transition' before he will help create the conditions for it" (p. 44 of Ex. 37). Here the Report carries out the mandate of the Seventh World Congress to expose "the correctness of the Communist policy and the incorrectness of the reformist policy" and to "wage an irreconcilable struggle * * * against the illusion that it is possible to bring about socialism by peaceful, legal methods * * *" (p. 37 of Ex. 47).

In connection with this exposure of the incorrectness of the Socialist approach to the problem of achieving socialism, the Report cites Marx, Engels and Lenin (referring to Lenin's "'Left Wing' Communism, An Infantile Disorder" as the supplement to the great polemics of Marx and Engels). The Report declares in substance that doctrinaire declarations of "no compromise" harm the cause of the proletariat because they result in failure to build up "the most favorable conditions for gathering and organizing the forces of socialism". The Report here states that "since the foundation of *Scientific socialism*, all its greatest teachers have been forced to struggle constantly against the phrasemongers of the 'no compromise' school of thought * * *" (pp. 44 and 45 of Ex. 37).

The Report goes on to say (pp. 47, 48, 50 and 51 of Ex. 37):

> "Certainly we are not indifferent to the problem of *'transition'* from a victory over fascism *to victory over the whole capitalist system.* But the transition does not come from empty slogans, disconnected from everyday life. This transition arises upon the basis of the growing strength, organization, discipline, fighting power, and understanding of the working class, which gathers around itself as allies all other oppressed strata of the population—a working class which has learned how to meet in

battle its worst enemies, *today* the fascists and monopoly capitalists and to defeat them on the immediate issues of the day. It is not a discouraged, defeated and demoralized working class *that will take up and realize the great program of socialism;* it is the enthusiastic, victorious, and organized workers who will move forward from victories in the defensive struggle to the offensive, and *finally to socialism.* Every strong defense passes insensibly to the offensive. To stop the retreat means already to prepare the advance. The defeat of fascism is the *first precondition* for the victory of socialism.

* * * * * * *

"The Communist Party works on the basis of the democratic People's Front platform. But in no way do we lose our own identity, or forget the task of strengthening our Party's role in the movement, as the most advanced and revolutionary sector of it. Working in the midst of the mass movement, the Communist Party has the task of building itself into a mass party, of educating the masses *in their final aims of working class power and socialism,* of acting as the vanguard in the movement by pointing out the next steps in the struggle, of initiating and supporting the progressive and democratic demands and movements. * * * The Communist Party, by becoming more and more the recruiting center of the most advanced elements of the movement, at the same time *becomes the initiative and organizing force.*"

The foregoing very definitely is expressive of the Leninist teachings as to the approach to the proletarian "seizure of power" from the bourgeoisie—the principles that are here referred to as "scientific socialism".

The Report emphasizes this point later in its discussion of the question of building the Party where it states (p. 106 of Ex. 37):

"Our practical work must be more illuminated by the theory of Marx, Engels, Lenin and Stalin, those greatest educators of the people known to history, the leaders of the realization of socialism . . ."

Clearly, then, the Communist Party in 1937 endorsed the Leninist teachings which have been analysed here. The Report even iterates the Leninist preachment that in practice the general program of the Communists (i.e. overthrow of the bourgeoisie and its government by an insurrection and establishment of the Soviet System) "must be linked up with the particular problems of particular groups" (p. 113 of Ex. 37).

It is the conclusion of the Presiding Inspector that this document, considered as an entity, constitutes evidence which cumulatively sustains the deportation charge of "membership".

The next three documents submitted in evidence in respondent's behalf are connected with the Tenth National Convention of the Communist Party which convened in 1938. These are: a Report entitled "The Democratic Front: For Jobs, Security, Democracy and Peace" Delivered to the Convention by the General Secretary of the Party (Ex. 39); the Resolutions adopted by the Convention (Ex. 42); and the Communist Election Platform for the year 1938 (Ex. 40). Each of these documents follows the same pattern as the above-discussed documents which emanated from the Ninth National Convention of the Party. They each stress the defense of "democracy" against fascistic reactionariness, and, in accordance with the Seventh World Congress' mandate, make it clear that the Communist Party is working towards the further Leninist goals beyond the "United Front". The Report and the Resolutions are additionally significant in that they furnish an insight to the wording of the Constitution adopted by the same Convention in 1938 (Ex. 4).

The Report entitled "The Democratic Front: For Jobs, Security, Democracy and Peace" (Ex. 39) is a very interesting document. It reveals more clearly than the others why the Communist Party necessarily bides its time and works to establish the "United Front" (even apart from the immediate compulsion of having to defeat the reactionary fascistic forces).

The Report, like the 1936 documents, declares that "the road to victory over fascism and war is the road of unity—unity of the working class, unity of the democratic masses of the people, unity of the nation against its exploiters and oppressors" (p. 9 of Ex. 39). It discusses the offensive

of the reactionary forces, the building of the "Democratic Front" (the 1936 documents referred to it as the "People's Front"), and the building up of the Communist Party in the same vein as the 1936 documents. It treats the question of American Peace policy differently, however, by pointing out that "The American League for Peace and Democracy represents the best-organized mass center for this movement towards a positive peace policy, and by endorsing the action of President Roosevelt against the Fascist nations" (p. 50 of Ex. 39).

With respect to the steps toward the establishment of The "Democratic (or People's) Front" and the further steps to be taken later in the Leninist path to the "seizure of power", the Report's affirmation of the position taken in the 1936 documents is clearly shown in the following passages (pp. 86, 87 and 88 of Ex. 39):

> "The Communist Party of the U. S. A. is based upon *the fundamental program of the revolutionary socialist reorganization of our country*, that is, the assumption of ownership and operation of the national economy by all the people, *acting through their state organization*, for the benefit of all the people.
>
> "*Because the majority of the American people are not convinced of the necessity of this socialist reorganization*, this program being accepted as yet only by a relatively small minority, and because *today* the main enemy is fascism, the Communist Party finds it necessary to dedicate all its forces to realizing the program of the democratic front, as the only guarantee against the victory of reaction and fascism, which threatens to destroy democracy and all its past achievements, to destroy civilization itself.
>
> "*The program of the democratic front is not a socialist program.* It is the minimum of these measures necessary, under capitalism, to preserve and extend democracy, all those things which have been the heart of the American tradition in the past, ever since the revolutionary foundation of the United States . . .
>
> . . . . . .
>
> "For the avoidance of all misunderstanding, now, and in the future, let us make clear beyond the slightest doubt that the Communist Party is in no

way weakening or abandoning its goal of *the complete realization of socialism* for America *at the earliest possible moment;* which means *as soon as* socialism gains the support of the majority . . ."

(Inspector's Note: Italics supplied.)

The Report repeatedly stresses that the unreadiness of the masses for a "socialist" program is the reason why a "socialist" program is not being put forth by the Party at this time, and why instead the "Democratic Front" is being advocated. The Report states (p. 20 of Ex. 39):

". . . the Communists whose position as a small minority party, with no *immediate* prospects of having majority support of *its special and particular program of socialist reorganization of America,* makes it necessary for us to look forward to a considerable period in which we accept the discipline of a great non-Communist democratic front, the success of which is our only guarantee against fascist reaction, war and catastrophe . . ." (Inspector's Note: Italics supplied.)

The Report further sets forth (p. 32 of Ex. 39):

"The (Inspector's Note: Democratic Front) program must be such as the majority of the people already understand and support, must be capable of rallying the majority of the people behind it NOW. That means that *it cannot be a fundamental program of the socialist reorganization* of American society, *for which as yet not even a considerable minority of the masses* has been won; not to speak of the majority. *The Socialist reorganization of our country is not yet on the order of the day* as a practical political problem for the majority of the people . . ."

(Inspector's Note: Italics supplied; capitals represent italics in the original.)

The references in the preceding quotations to the Communist's "special and particular program of socialist reorganization of America" awaiting the readiness of the majority to understand and support it might be open to an inference that the Communist Party in 1938 contem-

plated a peaceful, legal accession to power in the United States, were it not for the background of the Seventh World Congress' mandate, the 1936 Party declarations—and especially the full affirmation in the Report under discussion of the *whole of the Marxist-Leninist ideology*. Squarely relevant to the Report's references to the Party's "special and particular" and "fundamental" "program of Socialist reorganization" is the Report's following endorsement of "Marxism-Leninism" in connection with the tasks of the Party (pp. 59 and 60 of Ex. 39):

> ". . . But our Party, despite its political and organizational growth, is still far from adequate to the historical tasks before us.
>
> "This places squarely before us, with all urgency, the question of building our Party into a truly mass party *trained in Marxism-Leninism*. All the necessary conditions are present, if we know how to use them properly, for accomplishing this task.
>
> "We have a working class, *awakened to consciousness* and growing in organization and experience. *We have a situation of sharpening* class relations and class *struggles*. We witness a rapid expansion of the influence of our Party among the masses . . ."
>
> (Inspector's Note: Italics supplied.)

Also directly relevant and important to the point here is the following declaration in the Report with respect to the "quality of work" of the Party (p. 63 of Ex. 37):

> "We are learning, but we must learn better and more quickly, how to organize and extend the *independent mass agitation* of the Party, together with *the deeper education of the masses in the teachings of our great guides, Marx, Engels, Lenin and Stalin*.
>
> "We have begun seriously to popularize among the masses our rich inheritance of American revolutionary and democratic traditions, *linking it up fundamentally with our full Party program* . . . We must not only CLAIM, we must prove ourselves WORTHY of the claim, to be the best representatives at once of INTERNATIONAL SOCIALISM AND OF AMERICANISM." (Inspector's Note: Italics supplied; capitals represent italics in the original.)

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Also vitally significant to the point here is the following declaration in the Report with regard to the Party leadership (pp. 67 and 68 of Ex. 37):

> "We propose to make the education of our leading people, *their Marxist-Leninist training*, a central task of the whole Party . . .
>
> * * *
>
> "*The basic works of Marx, Engels, Lenin and Stalin should become* familiar to all of us, *as necessary* to our daily life as the air we breathe . . ."
>
> (Inspector's Note: Italics supplied.)

And finally, the passages in the Report most revelatory with respect to the point are the following, dealing with the "unity of the Party" (pp. 84 and 85 of Ex. 37):

> ". . . It (Inspector's Note: the unity of the Party) is a unity based upon understanding and science, the science of history, founded by Karl Marx and Frederick Engels and *developed, in the present era of imperialism and the rise of socialism as a world power, by Vladimir Lenin and Joseph Stalin.*
>
> "Our enemies have agreed among themselves to call us 'Stalinists'. With the deepest pride we accept the name of our most beloved teacher and guide . . . We remember how, in a previous period, the name of 'Leninist' was . . . invented . . . to become the most honorable name known among the *oppressed* of *all* lands. So today the name Stalin sums up the teachings of Marx, Engels, and Lenin, represents the highest level of Marxism achieved in the unshakable foundation of a *socialist society* on one-sixth of the earth, symbolizes the unshakable fortress of peace and socialism in the Soviet Union, the hope and inspiration and protection of the workers and *all* oppressed peoples of the world. Truly it is a proud name, Stalinist, and we must bear it with all modesty, for it carries with it a tremendous responsibility.
>
> "We have emphasized here that our Communist Party stands fully on its own feet, makes its own decisions, and is in every sense an American party.

> Our enemies have cried out in glee that this means we are separating ourselves from other Communist Parties of the world, from the Soviet Union, and from the Communist International. Again they are woefully mistaken. Nothing could be further from the truth. Not only is it true that the unity of the Communist Party of the U.S.A. is more solid than ever, but it is equally true that the *INTERNATIONAL UNITY OF ALL COMMUNISTS OF THE WORLD, associated together in our Communist International, has become,* under the guidance of our beloved Georgi Dimitroff, who symbolizes in his own person the power that is smashing fascism; *more* complete and *unconditional than ever before* in history. * * *" (Inspector's Note: Italics supplied; capitals represent italics in the original.)

The foregoing forthright declaration of the Communist Party's adherence in 1938 to "Marxism-Leninism" removes any doubt that the references in the Report to "Socialism" mean the transitional state leading to the classless communal society—the "Dictatorship of the Proletariat" in Soviet form. It also establishes beyond question that the references in the Report to the "special and particular program of socialist reorganization of America" of the Communist Party of the U.S.A. was in 1938 what it had been before—the Leninist prescription for the proletarian "seizure of power" from the bourgeoisie, incorporated into the "Program" of the Communist International.

It is the firm opinion of the Presiding Inspector that this Report, considered as a whole, constitutes substantial evidence that the Communist Party of the U.S.A. in 1938 advocated the overthrow of the Government of the United States by an insurrection involving such force and violence as would be necessary in the process. Accordingly it is found that this document sustains the "membership" deportation charge.

This Report, also, in its section dealing with "The American Tradition and Socialism" and "The New Party Constitution" (pp. 79 to 83 incl. and 86 to 93 incl. of Ex. 37) sheds a very revealing light on the 1938 Constitution of the Party (Ex. 4). This will be later discussed in relation to that Constitution.

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The next document to be considered is the pamphlet containing the Resolutions adopted, as aforementioned, at the Tenth National Convention of the Communist Party in 1938 (Ex. 42). The pamphlet contains a note to the effect that these Resolutions should be read in conjunction with the Report which has just been analyzed and which has been found to be an unmistakable affirmation of the Party's adherence to the whole of the "Marxist-Leninist" ideology (p. 2 of Ex. 42). This reference is enough to indicate that the Resolutions follow the same line as the above-discussed Report. The Resolutions, in the identical vein as the Report, review the reactionary dangers in the American scene in 1938 and the tasks of building the "Democratic Front" and declare that the chief task immediately before the working class and the Communists is to "block the road to Fascism" by defeating "the offensive of finance capital" (p. 6 of Ex. 42). The Resolutions, like the Report, declare (pp. 8 and 9 of Ex. 42):

> "The Communist Party supports completely this program (Inspector's Note: the program for a Democratic Front) and participates in the fight for its realization. The Communist Party is the *party of the socialist reorganization of society as the highest form of democracy.* As a consequence, it is in the front line of the broadest democratic camp against reaction, fascism and war. The program of the democratic front, which is accepted by the majority of the people, *is not a socialist program.* It is the program of *immediate* measures required for the protection of the political, cultural, and economic needs of the people within the framework of capitalist society. The menacing advance of fascism and the hardship of the economic crisis threaten alike the life and liberty of all working people whether they be Democrats, Republicans, progressives, Socialists, Communists—the overwhelming majority of the American people. Therefore, all such groups must rise above differences of *ultimate* programs and, by organized common action in a single front, they must win the victory for democracy against reaction and fascism." (Inspector's Note: Italics supplied.)

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Clear it is from the foregoing why the Communist Party of the U.S.A. began to champion the democratic liberties available to the people under the United States bourgeois democratic republic beginning with the Seventh World Congress' reorientation of Communist tactics in 1935. From a tactical line of intensification of direct efforts to organize for the overthrow of the bourgeois government in the United States by the Leninist-prescribed method, the Party about 1935 changed to a tactical line of formation of a "United Front" to protect the limited "democracy" and freedoms of the bourgeois democracy in this country from the fascist danger, and at the same time to use the "Front" as a means of getting support for the Communist program in anticipation of that future day when the objective conditions for the "seizure of power" prescribed by Lenin in his "fundamental law of revolution" (pp. 66 and 67 of Ex. 21) become ripe here.

The Resolutions under discussion also emphasize "Marxism-Leninism". At the point where the Resolutions deal with "Party Building" they state: "The historic tasks now facing the American labor movement place decisively before the American Communists the basic question of building their Party into a true mass party trained in *Marxism-Leninism* * * *" (p. 16 of Ex. 42). Additionally, "the Party will have to concentrate upon further organizing and extending its *independent* mass agitation and *Marxist-Leninist propaganda* in *all* spheres of activity in the labor and progressive movements" (pp. 17 and 18 of Ex. 42). Also, "the role of the Party as the *vanguard* and organizer *of the masses*, working systematically for winning a leading position, must be effectively strengthened * * *" (p. 19 of Ex. 42). And, "the convention * * * emphasizes the importance of building and broadening the Young Communist League as the instrument for educating America's young people in *Marxism-Leninism* and in the spirit of our Party" (p. 21 of Ex. 42). And finally, "the leading bodies of our Party have the task to assimilate and master more consciously and systematically the lessons of Comrade Stalin's leadership * * *" (p. 22 of Ex. 42).

It is the considered finding of the Presiding Inspector that these Resolutions of the Tenth Convention of the Communist Party (Ex. 42) cumulatively support the "membership" deportation charge.

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The "Communist Election Platform" for 1938 (Ex. 40) adopted at this Tenth Convention reflects the tenor of the above-discussed Report and the Resolutions. It condemns the reactionaries in American life in 1938, calls for the unity of all progressive forces and support of the "Democratic Front", states popular economic and social demands for the people, and urges the curbing of the "power of the monopolies", the safeguarding of "American Democracy", and keeping "America out of war by keeping war out of the world". It then closes by pointing out that the program set out in the "Platform" is "not a program of socialism", but is a program that "will help preserve democracy and further develop it, creating *more favorable conditions for the eventual establishment of the highest form of democracy-socialism*". It is to be recalled in this connection that Lenin and Stalin in their writings in evidence explain in what way, from the Communist viewpoint, the "Dictatorship of the Proletariat" is the "highest form of Democracy". The "Platform" goes on to state: "the Communist Party, as the Party of Socialism, fights for the present and *future* interests of the working people, and therefore works *towards the eventual socialist reorganization of society as the highest form of democracy* and human advancement. But today the issue is not socialism or capitalism—the issue is democracy or fascism. That is why the Communist Party stands in the front lines of the struggle for security, democracy, and peace * * *" (p. 13 of Ex. 40). The foregoing statements in the "Platform" emphasize the point germane to the issue: in the Communist view the time was not yet ripe in 1938 for direct work "towards the socialist reorganization of society as the higest form of Democracy"—in other words, the "Dictatorship of the Proletariat"—so the Communist Party in 1938 was supporting a program that would "help preserve democracy and further develop it"—of course in the direction of that "highest form of democracy"—the "Dictatorship of the Proletariat", which would quickly effect the Communists' "socialist reorganization of society".

Accordingly, it is the opinion of the Presiding Inspector that the Communist 1938 Election Platform constitutes cumulative evidence tending to support the "membership" deportation charge.

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The foregoing documents which were submitted in the respondent's behalf, and which have been found to sustain the "membership" deportation charge, were authenticated as aforementioned, through the testimony of respondent's witness, Schneiderman. His testimony did not establish whether these documents were distributed and circulated by the Communist Party during the period of respondent's membership. However, in view of the fact that they are official Party pronouncements and appear in evidence in published pamphlet form, the Presiding Inspector draws the inference that they were so circulated and distributed. Hence, it is his conclusion that these documents likewise constitute cumulative evidence to sustain the "circulation and distribution" deportation charge.

There are in evidence, besides the above-discussed documents, three additional documents which were placed in evidence at the reopened hearing in respondent's behalf: a telegram sent by the General Secretary of the Communist Party on March 15, 1938 to the Chairman of the New York State Senate Judiciary Committee in relation to a pending bill to bar persons believing in overthrow of government by force and violence from holding public office, which appears in an article written by the General Secretary in the April 1938 issue of the Communist monthly magazine (Ex. 44); the Communist Party Election Platform for 1940 (Ex. 43); and a copy of a 1947 edition of the Communist Party's 1945 Constitution (Ex. 34) (the 1945 edition of the same Constitution is in evidence as Ex. 14).

The 1940 Election Platform and the 1945 Constitution, having been promulgated subsequent to the 1939 date of the (stated) termination of respondent's membership in the Party and affiliation with the International, are on their face irrelevant to the issue, except to the extent that they reflect the doctrines advocated by the Communist Party prior to the (stated) 1939 end date of respondent's membership and affiliation. The witness Schneiderman testified to the effect that the 1945 Constitution of the Party, like the earlier 1938 Constitution (in evidence as Ex. 4), represented a codification of the Party's program and principles to which the Party had always adhered (R. 284 and 285). However, the testimony of the witness, Schneiderman, did not in any way tie the 1940 Election Platform in with the earlier precepts or Election Platforms of the Party (R. 291 and 292). Accordingly the

1940 Election Platform is considered to have no weight whatever in relation to the crucial issue in the case.

However, it is noted in passing, that it contains exactly the same doctrines as all the other documents in evidence which contain doctrinal pronouncements uttered by the Communist Party since the 1935 Seventh World Congress of the Communist International. It attacks "Wall Street", and the Democratic and Republican Parties which the Platform terms "twin parties of the financiers of Wall Street" for seeking in the 1940 elections "to goad the people into a war hysteria, into panic and confusion, and to induce the people to agree to a surrender of constitutional democracy to a virtual military dictatorship in time of peace" (pp. 4 and 5 of Ex. 43). The "Platform" opposes the "militarization of the country" and "the imperialist policies of the economic royalists, *their government* and parties" (p. 6 of Ex. 43). It is noted that this anti-imperialist war policy is expressive of one of the principles embodied in the 1928 Resolution on war of the Communist International (Ex. 27). The "Platform" calls for unification of the working class and toilers "around a common program of action to protect and advance the peace, liberties and welfare of our people, to defend the interests of our nation, the interests of the American people" (p. 8 of Ex. 43). This positive progressive program is excellent but the "Platform" reveals the further objective behind the Communist Party's advocacy of the progressive program it sets out, in the following significant paragraphs (p. 13 of Ex. 43):

> "Capitalism has brought our people only tyranny, hunger, degradation and war. Capitalism has given us an ever-deepening crisis, with millions permanently unemployed. Capitalism is destroying the cultural achievements *and constitutional guarantees of freedom provided in the Bill of Rights.* Under capitalism the people face a hopeless future. *Only when capitalism is abolished, when socialism is established*, as today in the U.S.S.R., will there be no wars, no unemployment, no social retrogression * * *. To make our country really free, united and prosperous * * * demands a new social order in which the national economy will belong to the people—a socialist society. Only in a nation free from

its monopoly and financial overlords and freed of bondage to the *few* who have seized its wealth and oppress its people can our people live and flourish.

"The Communist Party fights for the immediate interests of the working class, *as well as its socialist future.* We pledge to continue our struggle for *our socialist aim,* the common goal of all progressive mankind, *already triumphant over one-sixth of the earth.*" (Inspector's Note: Italics supplied.)

There are two important points to be noted in the preceding statement: first, it states that in the U. S. S. R., "socialism is established" and that the "socialist aim" of the Party in 1940 was to achieve the same socialist system "already triumphant" in the U. S. S. R. Now, the U. S. S. R. is still a "Dictatorship of the Proletariat". Accordingly, the Party's declaration signifies that its socialist aim is the establishment of a "Dictatorship of the Proletariat" here; and second, the passage speaks for the abolishment of capitalism and the freeing of the people from their bondage to the few who oppress them. This statement denotes the Party's adherence in 1940 to the Marxist-Leninist ideology.

Study of the organic whole of the 1940 Election Platform thus reveals that the Platform, like all the other post-1935 Party documents in evidence, fully accords with the decisions of the Seventh World Congress of the Communist International. So, while it does not bear directly upon the crucial issue because, as aforementioned, it was adopted by the Party after the respondent's Party membership had ended, this Platform serves cumulatively to show the Party's continued implementation of the Seventh World Congress' directives.

As stated above, the witness, Schneiderman, testified that the 1938 and 1945 Constitutions of the Communist Party merely codify the principles that the Party has always followed. The Report of the General Secretary of the Party to the Tenth National Convention (which adopted the 1938 Constitutional) amplifies in an important respect the point made by the witness. The Secretary's Report, discussing the then proposed Constitution, states (p. 79 of Ex. 39):

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"There is nothing new in principle in the new Constitution. It is the codification of our existing organizational practice, and *presents our fundamental program* in terms of modern America, and *in the light of the Seventh World Congress of the international Communist movement.*" (Inspector's Note: Italics supplied.)

(This same discussion in the Report reveals that from 1929 to 1938 the Party had operated under a draft Constitution which the Party had never *formally* adopted (p. 79 of Ex. 39). This remark shows that the Party had been guided in practice by a specific set of statutes prior to 1938. So, then, the statutory excerpts appearing in the Communist Party membership book in evidence (Ex. 18), which have already been quoted, authentically represent Party practice and doctrinal policy, even though they had never been formally approved by a Party convention. This revelation in the Report reflects upon the respondent's statement that he had no knowledge of any Party Statutes prior to the adoption of the Constitution in 1938 (R. 602)).

The foregoing declaration of the General Secretary that the 1938 Constitution presents the fundamental program of the Party in modern-day terms indicates that the basic Party objectives have never been changed. As has been noted, the yardstick of whether a particular tactic advances toward the fixed Communist strategic objective (mobilization of the masses for the revolutionary "seizure of power" from the bourgeoisie and for the establishment of the Soviet system) has been stressed by the Leninist writings in evidence as the criterion by which to judge whether that particular tactic is or is not opportunistic. (As has been discussed earlier, the Leninist teaching is that this unvarying adherence to the fixed strategic objective calculated to achieve the "seizure of power" successfully, must be combined with the utmost flexibility in tactics calculated to take full advantage of the particular situation and the peculiarities of the class relationships in the given country, in order to bring the masses up to the point of readiness for the revolutionary struggle.)

Not only does the above-noted declaration of the General Secretary assert that the Party has had a fundamental (fixed) program—it also proclaims that the 1938 Constitution presents this fundamental Communist program in

the light of the Seventh World Congress. Analysis of the Constitution corroborates this statement of the General Secretary and reveals that it conforms fully to the Seventh World Congress' directives. As study of the Congress' decisions has disclosed, the Congress instructed the Parties to concentrate on certain immediate tactics in order to forestall Fascism, but to employ these tactics jointly with other groups only on condition that the principle of the Communist strategic objective be agreed to by these other groups. The section in one of the Congress' Resolutions, significantly captioned: "For Soviet Power", very clearly shows that the immediate tactics which the Congress directed the Parties to employ have as their objective the "seizure of power" and establishment of the Soviet system This section declares (p. 38 of Ex. 47):

> "In the struggle to defend against fascism the bourgeois-democratic liberties and the gains of the toilers * * * the revolutionary proletariat prepares its forces, strengthens its fighting contacts with its allies and directs the struggle toward the goal of achieving real democracy of the toilers—Soviet Power."

So then, it is obvious that the Communist defense of "bourgeois-democratic liberties" and the "gains of the toilers" are not ends in themselves, but are tactics directed toward the Communist strategic goal of substituting "Soviet power"—which the Communists term "real" proletarian democracy—for the very "formal" bourgeois democracy, whose "bourgeois-democratic liberties" the Congress here instructed the Parties to defend against Fascism.

Another mandate of the Seventh World Congress which the 1938 Party Constitution particularly implements is the Congress' instruction that the Parties tie in the Communist program with the traditions of the particular country. This requirement, which appears in the section of one of the Congress' Resolutions dealing with the tasks of the Communists in the various sectors of the anti-Fascist front, is as follows (p. 33 of Ex. 47):

> "The Communists must * * * do everything to enlighten the toiling masses on the past of their

> own people in an historically correct fashion, in the true spirit of Lenin and Stalin, so as to link up their present struggle with the revolutionary traditions of the past."

The preamble to the 1938 Communist Party Constitution (and its body as well) carries out the instructions of the Seventh World Congress to the letter. The preamble links up the Party's struggle toward establishment of Soviet Power (the dictatorship of the proletariat) with the revolutionary traditions of America, and it turns its support of "the bourgeois-democratic liberties and the gains of the toilers" toward that same goal—the achievement of "real" proletarian democracy—Soviet Power.

While carefully avoiding any pledge of allegiance to the United States Constitution, the preamble asserts the Party's readiness to defend the American Constitution against its reactionary enemies (who are likewise the foes of the Communists). It proclaims in effect that the Party is preparing the proletariat (the working class) "for its historic mission", in the United States, which, as the above-quoted instruction of the Seventh World Congress makes clear, is the establishment of Soviet Power.

The foregoing discussion makes clear the true import of the first part of the preamble to the 1938 Communist Party Constitution, which reads as follows (p. 5 of Ex. 4):

> "The Communist Party of the United States of America is a working class political party *carrying forward today the traditions* of Jefferson, Paine, Jackson, and Lincoln, and of the Declaration of Independence; *it upholds the achievements of democracy*, the right of 'life, liberty, and the pursuit of happiness', and defends the United States Constitution against *its reactionary enemies* who would destroy democracy and all popular liberties; it is devoted to defense of the immediate interests of workers, farmers, and all toilers *against capitalist exploitation*, and to *preparation of the working class for its historic mission* to unite and lead the American people *to extend these democratic principles to their necessary and logical conclusions* * * *."

(Inspector's Note: Italics supplied.)

What the "necessary and logical conclusions" are, to which the Communist Party of the U. S. A. intended to extend the "democratic principles" of such a bourgeois democracy as the United States, have been discerned in the Leninist writings in evidence. Lenin declares that "real" proletarian democracy is to be substituted for the false "formal" bourgeois democracy through the forceful substitution of the proletarian dictatorship in Soviet form for the bourgeois dictatorship which, he says, is the essence of any bourgeois state, whether it be republican or any other variety.

In "State and Revolution" he points out that from capitalist democracy "progress does not march onward, smoothly and directly to 'greater and greater democracy,' * * * progress marches onward, *i.e.*, towards Communism, through the dictatorship of the proletariat; it cannot do otherwise, for there is * * * no other way to break the resistance of the capitalist exploiters" (p. 73 of Ex. 20). Further, Stalin in "Foundations of Leninism" makes clear the further Leninist teaching that "there are no *real* 'liberties' for the exploited" under bourgeois democracy because "democracy under capitalism is capitalist democracy, the democracy of the exploiting minority based on the restriction of the rights of the exploited majority and directed against this majority". Additionally, Stalin explains that proletarian "real" democracy is totally the reverse of bourgeois "formal" democracy. For, "under the dictatorship of the proletariat, democracy is PROLETARIAN democracy, the democracy of the exploited majority, based upon the restriction of the rights of the exploited minority and directed against this minority (p. 54 of Ex. 22).

Careful analysis of the declarations in the preamble establishes that the preamble actually expresses these Leninist ideological precepts, even though it gives the surface impression of fully endorsing American bourgeois democracy. That the Communist Party held the Leninist view that American democracy is only bourgeois "formal" democracy is revealed in the 1937 Report of the General Secretary of the Party which was delivered but a short time before the 1938 Constitution gave expression to the Party's view. In that Report the General Secretary declared: "The fullest defense of even the *limited and un-*

developed democracy of today in America, and of its best fruits in the cultural and material status of the population, coincides fully with the most direct and least difficult path to socialism." (p. 29 of Ex. 37); "* * * 'transition' from a victory over fascism to victory over the whole capitalist system; 'transition' to socialism, * * * does not come from empty slogans, disconnected from every-day life. This transition arises on the basis of the growing strength, organization, discipline, fighting power, and understanding of the working class, which gathers around itself as allies all other oppressed strata of the population * * *" (p. 47 of Ex. 37).

The Secretary's description here of American democracy as being "limited and undeveloped" exemplifies the Party's Leninist view that the bourgeois democracy of the United States is not "real" democracy for the toilers. The Secretary's reference to the defense of this limited bourgeois democracy coinciding fully "with the most direct and least difficult path to socialism" which he says is "victory over the whole capitalist system", exemplifies the Party's Leninist view that the bourgeois democratic state is the form of the bourgeois state best suited for the Communist purposes. (As Lenin teaches, the Communists can use the freedom such a state affords to organize more or less openly the masses for the revolutionary "seizure of power", and can use the democratic principle of "formal" equality of all to agitate and enlist mass support behind the Communist advocacy of "real" economic, political, and social equality for the masses.)

So then, while the preamble to the 1938 Party Constitution expresses the Party's support of the "Achievements of democracy in America", this declaration in no wise alters the Party's Leninist view that such democracy is "inevitably narrow, hypocritical and false to the core" democracy, and democracy only "for an insignificant minority (pp. 72 and 73 of Ex. 20). This is borne out by the Secretary's 1938 Report to the Convention.

As the Report states, the Party, following the lead of the Seventh World Congress, and recognizing that it had not yet obtained the mass support that Leninism prescribes is one of the major preconditions for a successful proletarian revolution (p. 32 of Ex. 39), sensibly rallied to defend against fascistic reactionary encroachments, the bour-

geois democratic liberties which afford the Party the opportunity freely to "organize and extend the independent mass agitation of the Party, together with the deeper education of the masses in the teachings of our great guides, Marx, Engels, Lenin, and Stalin" (p. 63 of Ex. 39). In 1938, it was also naturally to the Party's interest to defend "the United States Constitution against its reactionary enemies who would destroy democracy and all popular liberties". For, as Dimitroff declared at the Seventh World Congress, the Communists were "ready to do all this, in countries of bourgeois-democracy * * * to block the road in the way of reaction and the offensive of capital and fascism, prevent the abrogation of bourgeois-democratic liberties, forestall fascism's terrorist vengeance upon the proletariat * * *" (p. 7 of Ex. 47) (and of course upon the Communist Parties).

The preamble to the 1938 Communist Party Constitution clearly shows that it means "Soviet Power" when it refers to extending the bourgeois democratic liberties it upholds to "their necessary and logical conclusions". For it states that these "necessary and logical conclusions" are to be attained in the following manner (pp. 5 and 6 of Ex. 4):

> "By establishing common ownership of the national economy, through a government of the people, by the people, and for the people; the abolition of all exploitation of man by man, nation by nation, and race by race, and thereby the abolition of class divisions in society; that is by the establishment of socialism, according to the scientific principles enunciated by the greatest teachers of mankind, Marx, Engels, Lenin, and Stalin, embodied in the Communist International. * * *"

Lenin's and Stalin's expositions in evidence postulate that "the establishment of common ownership of the national economy", the attainment of "real" democracy for all the oppressed classes, and the "abolition of all exploitation" are to be achieved through establishment of the Soviet form of the "Dictatorship of the Proletariat" following upon the forcible and violent overthrow of the bourgeoisie and its state power. The "Program" and "Resolution" on war, adopted in 1928, and affirmed in 1935, by the Communist International make it perfectly

clear that "socialism" is to be attained following establishment of the Soviet form of the proletarian dictatorship, which is to be established by "armed" insurrection against the state power of the bourgeoisie" (p. 80 of Ex. 5) in all capitalist countries of the world, including the United States.

So, then, the dedication of the 1938 Constitution to the establishment of socialism in accordance with the scientific principles of "Marxism-Leninism" incorporated into the doctrinal declarations of the Communist International is convincing evidence that the Communist Party advocated the forcible and violent overthrow of the Government of the United States and the establishment here of a Soviet system.

The last portion of the preamble dedicates the 1938 Constitution to (p. 6 of Ex. 4):

> "* * * the free cooperation of the American people with those of other lands, striving toward a world without oppression and war, a world brotherhood of man."

With respect to this part of the preamble, it is to be recalled that Stalin explains that "the Soviet power is the most internationalist of all state organizations in class society, for since it destroys every kind of national oppression and rests on the collaboration of the laboring masses of the various nationalities, it facilitates, by virtue of this, the amalgamation of these masses into a single state union" (p. 59 of Ex. 22). Further, Stalin describes the Soviet Power as "true internationalism", and terms the Union of Soviet Socialist Republics, a "remarkable organization for the collaboration of nations". He asserts that the Union of Soviet Socialist Republics is "the living prototype of the future union of Nations in a single world economic system" (p. 85 of Ex. 22). Moreover, the Resolution of the Seventh World Congress dealing with the "World historic significance" of the victory of Socialism in the U. S. S. R. closes with this statement which is relevant here (p. 56 of Ex. 47):

> "Assistance to the U. S. S. R., its defense, and cooperation in bringing about its victory over all its enemies must therefore determine the actions of

> every revolutionary organization of the proletariat * * * of each and every one who desires the overthrow of exploitation, fascism, and imperialist oppression, deliverance from imperialist war, who desires that there should exist brotherhood and peace among nations, that socialism should triumph throughout the world."

These utterances of Stalin and of the Seventh World Congress of the Communist International shed a revealing light upon the above-cited reference in the preamble to the Party's "striving toward a world without oppression and war, a world brotherhood of man". This reference in the preamble evidently contemplates an eventual world-wide Union of Soviet Socialist Repubilcs. From the Communist viewpoint, only such an organization could result "in a world without oppression and war".

It is therefore the conclusion of the Presiding Inspector that the preamble to the 1938 Communist Party Constitution is an artful dedication of the Party to realization in the United States of the Leninist revolutionary objective —the forceful revolutionary establishment here of a Soviet system. It is further the determination of the Presiding Inspector that the preamble implements fully the mandate of the Seventh World Congress which directed the Parties to support bourgeois democratic liberties against reactionary inroads, to tie the Communist revolutionary objective in with the historical traditions of the country, and to champion the economic and political interests of the working class and other oppressed groups with a view to mobilizing the masses around a program that would lead to offensive action against capitalism, and culminate in the "establishment of socialism"—the Soviet system—in the United States.

It is particularly noteworthy that the 1938 Communist Party Constitution, while professing defense of the United States Constitution "against its reactionary enemies who would destroy democracy and all popular liberties", does not utter a single phrase signifying the Party's loyalty or attachment to the United States Constitution. The substantive provision of the 1938 Communist Party Constitution which declares the Party's support of the achievements of American democracy is its Article VI, which reads as follows (p. 10 of Ex. 4):

"Section 1. The Communist Party of the U.S.A. upholds the democratic achievements of the American people. It opposes with all its power any clique, group, circle, faction or party which conspires or acts to subvert, undermine, weaken or overthrow any or all institutions of American democracy whereby the majority of the American people have obtained power to determine their own destiny in any degree. The Communist Party of the U.S.A. standing unqualifiedly for the right of the majority to direct the destinies of our country, will fight with all its strength against any and every effort, whether it comes from abroad or from within, to impose upon our people the arbitrary will of any selfish minority group or party or clique or conspiracy."

This declaration in the 1938 Communist Party Constitution says nothing about the Party's upholding the American constitutional provision guaranteeing the states a republican form of government (Article Four, Section Four) or the provision setting forth the lawful means of amending the Constitution of the United States (Article Five). This declaration merely says that the Communist Party "upholds the democratic achievements of the American people"; opposes any group that conspires or acts to overthrow those instituions of American democracy *"whereby the majority of the American people have obtained power to determine their own destiny in any degree"*; and fights to prevent *"any selfish minority group"* from imposing its *"arbitrary will"* upon the American people.

Like the preamble, this declaration, while rallying to the defense of bourgeois liberties, does not renege on the Leninist dictum that "in capitalist society, we have a democracy that is curtailed, poor, false; a democracy only for the rich, for the minority" (p. 74 of Ex. 20). It merely expresses the Party's support of those aspects of American bourgeois democracy which permit the "extension, development, unfolding, and sharpening" of the proletarian class struggle for emancipation from the oppression of the bourgeoisie (p. 59 of Ex. 20), so that this struggle can be freely developed under the leadership of the Party to the revolutionary point when "among the proletariat a mass

sentiment in favour of supporting the most determined, supremely bold, revolutionary action against the bourgeoisie" arises and begins "vigorously to grow" (p. 25 of Ex. 20).

Further, this declaration does not repudiate, *instead it reinforces*, the prior utterances of the Party. The "selfish minority groups" in the United States attempting to impose their "arbitrary will" upon the people, against whom this declaration is directed, are identified in the following Party utterances, which are fairly contemporaneous with the Constitution: (in 1934) "* * * Roosevelt and his New Deal represent the Wall Street bankers and big corporations—just the same as Hoover before him, but carrying out even fiercer attacks against the living standards of the masses of the people" (p. 21 of Ex. 12); there is no possible way out of the crisis in the interest of the masses except by breaking the control of the State power now in the hands of this small monopolist class p. 26 of Ex. 12); (in 1936) the United States is "ruled by the imperialist bourgeoisie" (p. 7 of Ex. 35); the "camp of fascism" in the United States is "headed by the dominant leadership of the Republican Party" (p. 6 of Ex. 35); the "Wall Street" camp in American aims to "seize control of all governmental machinery, moving toward a full-fledged fascist regime, in 'American' and 'constitutional' ways" (p. 9 of Ex. 35); (at the time of the 1936 elections) "the Landon-Hearst-Wall Street ticket is the chief enemy of the liberties of the American people" (p. 10 of Ex. 35); (in 1937) the state is "the executive committee of the capitalist class" (p. 19 of Ex. 37); (in 1938) "the reactionaries, the fascists, the warmakers * * * have control of the great trustified industries, the heart of the national economy, in each of the capitalist nations. They are the economic royalists, the 'sixty families'" (p. 8 of Ex. 39); and "as part of the world offensive of fascism, which is already extending to the Americas, the most reactionary section of finance capital in the United States is utilizing the developing economic crisis, which it has itself hastened and aggravated, as the basis for a major attack against the rising labor and democratic movements (p. 3 of Ex. 42). These citations from the official Party documents show clearly against whom Article VI of the 1938 Communist Party Constitution was principally directed.

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Further, the assertion in this Article VI that the Communist Party stands "unqualifiedly for the right of the majority to direct the destinies of our country" indicates that the Party opposes those aspects of American democracy which from the Communist point of view, effectually prevent the majority from directing the country's destiny. So, even though the Party supports those aspects of American democracy that provide formal liberty and freedom for the people, this declaration expresses the Party's antagonism to the "real" inequalities which the Communists say make all bourgeois democracy "curtailed, poor, false, a democracy only for the rich, the minority" (p. 74 of Ex. 20).

Moreover, the Communists postulate that the Communist Party, the vanguard of the Proletariat, represents the interests of the great mapority of the people, and that in a severe crisis the Party will acquire mass support. According to this "unqualified" declaration in Article VI, the Party would then be entitled "to direct the destinies of our country", regardless of electoral results or constitutional limitations.

The absence of any pledge of allegiance in Article VI to the United States Constitution is rendered more significant by the fact that the Party Convention which adopted the Constitution, had the very question of loyalty to the American Constitution placed before it. The Report of the General Secretary to this Convention, in discussing the new Constitution, adverts to a complaint made by one Boake Carter, a columnist, that the then proposed Constitution did not "specify an obligation to be loyal to the Constitution of the United States' ". The Report of the Secretary has this to say about the complaint (p. 81 of Ex. 39):

> "When we remind ourselves that the *only serious menace* of the overthrow of the Constitution of the United States comes from Mr. Carter's paymasters, the reactionaries and economic royalists, it seems well that we should specifically register this fact in our political resolution, and declare our determination to defend the Constitution of the United States, embodying many of the important achievements of American democracy, *from these attacks by the reactionaries.* * * *" (Inspector's Note: Italics supplied.)

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This statement of the General Secretary of the Party makes it very clear that Article VI of the 1938 Constitution is directed against the "reactionaries and economic royalist" in the United States. In the opinion of the Presiding Inspector this quoted passage artfully and purposively skirts the issue raised by Boake Carter in relation to loyalty to the United States Constitution and establishes that Article VI of the 1938 Party Constitution was deliberately worded to limit the extent of the Party's defense of the American Constitution only to its defense against the reactionaries. In view of the "Marxist-Leninist" prescription of unconstitutional revolutionary means to achieve the proletariat's "seizure of power" from the bourgeoisie, it is the opinion of the Presiding Inspector that the Party's considered abstention from any general pledge of loyalty to the American Constitution, particularly its amendment provision, is significant.

Article X of the 1938 Communist Party Constitution is also relevant to the discussion here. It provides in relation to the "disciplinary procedure" of the Party that party members found to be "advocates of terrorism and violence as a method of Party procedure" are to be expelled from the Party (p. 20 of Ex. 4). In the opinion of the Presiding Inspector, the use here of the phrase "advocates of terrorism and violence" represents the same sort of fine distinction as the above-mentioned Communist distinguishment between bourgeois and proletarian "democracy", and between opportunist and non-opportunist "agreements". Analysis of the Marxist-Leninist ideology, the utterances of the Communist International, and the pronouncements of the Communist Party of the U.S.A., has clearly revealed the Communist assumption that force and violence shall necessarily have to be used in the proletariat's "seizure of power" from the bourgeoisie and its state instrumentalities, and in the proletariat's subsequent suppression of the bourgeoisie and its adherents. Therefore, the ban in Article X on the "advocacy of Terrorism and violence as a method of Party procedure", cannot mean that the Party eschews all advocacy of force and violence.

This same fine (and confusing) distinction in terminology appears to have been used by the General Secretary of the Party. Whereas on May 28, 1938 in his Report to the Tenth National Convention, he declared that the

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Marxist-Leninist ideology was the Party guide to attain "the complete realization of socialism for America at *the earliest possible moment*" (pp. 63, 67, 68, 84 and 88 of Ex. 39), he sent a telegram to the New York State Judiciary Committee (mentioned earlier) on March 15, 1938, in which he inconsistently states that "the Communist Party opposes the overthrow of American democracy" (p. 320 of Ex. 44). This exemplifies the Communist play upon words. While it is correct that the Marxist-Leninist ideology does not propose to overthrow the "equality" aspect of bourgeois democracy, but rather to enlarge upon it, it is indisputable that the ideology proposes not to extend the limited democracy of the bourgeois state peaceably, but to substitute forcibly in its place the "greater democracy" of the proletarian dictatorship. So it is obvious how this "play upon words" begs the point.

In this same telegram, the General Secretary declares (p. 320 of Ex. 44):

> "The Communist Party does not advocate force and violence. It is not a party of anarchists, terrorists, or con-spirators. By no stretch of the imagination does it come under the terms of the criminal anarchy statute or any law patterned after that statute."

This declaration is another good example of the Communists' fine distinctions in the use of words, and sheds a revealing light on what are the "terrorism and violence" to which Section X of the 1938 Constitution refers. It is correct, according to the Marxist-Leninist ideology, that the Communist Party is not a party of anarchists, or terrorists. It is also correct that the Communist Party is not a party of conspirators, in the sense of a secret cabal or junto. But the evidence in this record irrefutably establishes that the Communist Party is a Party devoted to the legal and/or illegal organization and leadership of a contemplated concerted violent and forceful insurrection of the proletariat, perhaps allied with the poorer farming class, against the state power of the bourgeoisie in this country—the Government of the United States—in order to establish the Soviet form of the "Dictatorship of the Proletariat, as the instrument to suppress the bourgeoisie and to organize the country in a socialistic manner. The Party

has declared its adherence to the Seventh World Congress' directives. One of the Congress' Resolutions endorses the following declaration of Stalin: "The victory of revolution never comes by itself. It has to be prepared for and won. And only a strong proletarian revolutionary party can prepare for and win victory" (p. 39 of Ex. 47). Organization and preparation coupled with agitation and propaganda constitute "advocacy". So while the Party does not advocate force and violence in the same manner as do the Anarchists, and does not organize like a band of conspirators, it nonetheless is engaged in activities which bring it within the scope of the "advocacy" prescribed by the deportation statute.

This same fine distinguishment between the Anarchist advocacy of force and violence and the Communist advocacy of force and violence is revealed in the "Program" of the Communist International. The "Program" draws a distinction between Anarchism as the advocate of *individual* terror and violence, and Communism, as the advocate of *collective,* organized force and violence for the specific purpose of overthrowing the bourgeois state power and establishing "Soviet Power". The "Program" shows this distinction in the following passage (pp. 73 and 74 of Ex. 5):

> "ANARCHISM . . . denies the necessity for wide, centralized and disciplined proletarian organizations and thus leaves the proletariat powerless before the powerful organizations of capital. *By its advocacy of individual terror,* it distracts the proletariat from the methods of *mass organization and mass* struggle. By repudiating the dictatorship of the proletariat in the name of 'abstract liberty', anarchism deprives the proletariat of its most important and sharpest weapon against the bourgeoisie, *its armies, and all its organs of repression* . . ." (Inspector's Note: Italics supplied; capitals represent italics in the original.)

This passage clearly reveals by its contrast that the Communists believe in the "necessity for wide, centralized and disciplined proletarian organizations" and advocate "the methods of mass organization and mass struggle", particularly the "dictatorship of the proletariat" as the

means of overcoming the bourgeois armies and other bourgeois "organs of repression".

Lenin trenchantly explains why the Communists reject the tactic of "individual terrorism, assassination" in "'Left Wing' Communism, An Infantile Disorder" (pp. 18 and 19 of Ex. 21):

> ". . . Of course, we rejected individual terrorism *only* on the ground of *expediency*, whereas people who were capable of condemning 'on principle' the terrorism of the Great French Revolution, *or in general, the terrorism employed by a victorious revolutionary party which is besieged by the bourgeoisie of the whole world*, were ridiculed and laughed to scorn even by Plekhanov in 1900-3, when he was a *Marxist* and a revolutionary . . ." (Inspector's Note: Italics supplied.)

Thus, Lenin points out that individual terrorism is inexpedient as a proletarian tactic (it being unsuitable to the achievement of the overthrow of bourgeois state power), whereas the Bolshevik use of terrorism (on a concerted organized basis) was a necessary revolutionary tactic.

So then it appears that the ban on "terrorism and violence" in Article X of the 1938 Communist Party Constitution and the disavowal of "force and violence" in the telegram of the General Secretary refer to the individual terrorism and violence of Anarchism, which Lenin terms an utterly fallacious and unfit guiding theory for the revolutionary class (p. 18 of Ex. 21), and not to the organized, centrally directed, force and violence of the proletarian revolution espoused by Leninism.

The last remaining relevant provision in the 1938 Constitution of the Communist Party is Article XI which proclaims the Party's affiliation with all other Communist Parties through the medium of the Communist International. This Article contains a further provision to the effect that "resolutions and decisions of international Congresses shall be considered and acted upon by the supreme authority of the Communist Party of the U. S. A., The National Convention, or between Conventions, by the National Committee" (p. 21 of Ex. 4). This provision was discussed and considered in the original Opinion. It was

there concluded on the basis of the provisions in the Constitution of the Communist International (which were quoted in that Opinion), and the declarations as to the "international proletarian discipline" in the "Program" (O 29 through 35, and 43 and 44) (the Constitution of the Communist International made it obligatory for the Communist Party of the U. S. A. to carry out all decisions of the International, even though the Party might disagree with such decisions), that the above-noted provision in Article XI of the 1938 Constitution meant that the Party had to consider and *effectuate* the resolutions and decisions of the International body (O 44).

There is additional evidence now in the record with regard to this point. As has been fully discussed in this Supplementary Opinion, the need for international proletarian discipline, and the subordination of the local interests to the international interests of the proletariat, has been repeatedly stressed in the documents in evidence. The Speeches delivered by Stalin in 1929 before the Communist International in relation to the factional situation in the American Communist Party make the subservience of the Parties to the Communist International very plain. Stalin declared that without the subordination of the individual Communists to the Party and without the subordination of the individual Parties to the Comintern, "there can be no collective, no collective leadership, no Communism". And that is true not only with respect to individual parties and their central committees; it is particularly true in respect to the Comintern and its leading organs, which unite all Parties of Communists throughout the world" (p. 37 of Ex. 46). He further asserted: "Is it not clear that we should never have had any decisions or any collective will, neither in the individual Parties, nor in the Comintern, if individuals, and minorities in general, did not submit to the will of the majority, *to the will of the higher collective?*" (pp. 38 and 39 of Ex. 46). The official declarations in evidence of the Communist Party repeatedly assert the "iron discipline" and the "international unity" of the Communists (pp. 84 and 85 of Ex. 39; p. 22 of Ex. 42; pp. 37 and 38 of Ex. 35; p. 99 of Ex. 37). The Communist Party, as discussed above, exactly implemented the 1933 Thesis and the 1935 Resolutions of Communist International. All of this evidence supports the conclusion that, as the "Pro-

gram" asserts, "the international Communist discipline" involves the "strict fulfillment by all members, of the decisions passed by the leading bodies of the Communist International" and the submission of the Sections of the Communist International to the international proletarian discipline (p. 85 of Ex. 5).

With respect to the point under discussion, the only evidence in the record on the other side is the testimony of the respondent and the witness Schneiderman (which is counterbalanced by the testimony of the witnesses Hewitt and Pitcoff) and the statement in the 1938 telegram of the General Secretary of the Party to the effect that "the Communist Party is an American Party and is not subject to any foreign control" (p. 320 of Ex. 44).

The overwhelming weight of the evidence on the point convinces the Presiding Inspector that the principle of "democratic centralism" as set forth in the Constitution of the Communist International was binding upon the Communist Party of the U. S. A. (pp. 87 and 88 of Ex. 5). Under this constitutional principle, once a decision of the Communist International had been reached, all Parties and individual members were obliged to execute it promptly. Accordingly the finding is made that the reference in Article XI of the 1938 Communist Party Constitution to the Party's considering and acting upon decisions of the Communist International is expressive of the obligation of the Party to effectuate the International's decisions, and does not mean that the Party reserved to itself the right to approve or disapprove the decisions of the International.

The foregoing discussion of the 1938 Communist Party Constitution substantiates the statement of the General Secretary of the Party in his Report to the Tenth National Convention that there is nothing new in principle in the 1938 Constitution; that it is the codification of the Party's existing practice; and that it presents the Party's fundamental program with the perspective of the Seventh World Congress of the Communist International. Its preamble clearly shows the Party's fundamental program: advocacy and organization of the forcible and violent revolution of the proletariat, to seize power from the bourgeoisie and establish the Soviet form of the "Dictatorship of the Proletariat" in the United States to serve as the instrument for

the suppression of the bourgeoisie and the socialist reorganization of society.

Respondent, and Counsel, conceded that this 1938 Constitution was circulated and distributed by the Communist Party (R. 145). Therefore, on the basis of the foregoing, it is found that this document sustains the "membership" and "circulation and distribution" deportation charges.

The 1945 Constitution of the Communist Party, which is the last document submitted in evidence in respondent's behalf yet to be discussed, follows the tenor of the 1938 Constitution closely (Exs. 14 and 34). It is particularly noteworthy that the preamble sets forth that the 1945 Constitution bases itself "upon the principles of scientific socialism, Marxism-Leninism" (p. 3 of Exs. 14 and 34), and that the Communist Party aims to establish "Socialism, the highest form of democracy" in the United States (p. 5 of Exs. 14 and 34). It is the considered determination of the Presiding Inspector that a declaration advocating the establishment of Socialism in the United States according to the "Scientific" principles of "Marxism-Leninism" is tantamount to a declaration of advocacy of the overthrow of the United States Government by means of an organized proletarian insurrection involving such force and violence as are necessary in the process. Accordingly, it is concluded that while it does not bear directly upon the crucial issue (it was adopted after the respondent left the Party), this document cumulatively weighs against the respondent.

The next category of evidence to be considered is the individual expression of "expert" informed opinion in relation to the crucial issue. This evidence appears in the record in two forms: the published writings of Communist Party officials, which are in evidence in the form of pamphlets and articles in the Communist monthly magazine, and the oral testimony of the three witnesses and of the respondent. It is the opinion of the Presiding Inspector that in this category of evidence, the published utterances are entitled to more weight than the oral testimony for a number of reasons: first, as the witnesses testified, these writings were extensively circulated and distributed by the Party; second, the authors of two of the pamphlets, in particular, were highly placed officials of the Communist Party (one was National Educational Director of the

Party), and in a position to know the principles upon which the Party stood; third, these two particular pamphlets are lucid and comprehensive expositions which apply the whole of the Marxist-Leninist ideology to the United States; fourth, these two particular pamphlets, as their title pages show, were reprinted under the auspices of the Party in five and four different editions, respectively, during the years 1932 through 1935.

The two pamphlets to which particular reference is made here are: "Why Communism" written by M. J. Olgin and "The Communist Party in Action" written by Alex Bittelman (Exs. 24 and 25). The witness, Hewitt testified that M. J. Olgin had been a member of the National Committee of the Party (R. 163) and that Alex Bittelman was the National Agitational-Propaganda Director of the Party and a member of its National Bureau (R. 160). All three witnesses authenticated, and testified to the wide distribution and circulation by the Party, of these documents (R. 160 through 164; 262, 263, and 335 through 342).

"Why Communism" is a treatise that presents the Marxist-Leninist ideology in simple, readable language, apparently written down to the comprehension level of the average man on the street. Respondent's witness, Schneiderman, testified that while he did not recall reading this pamphlet, he knew the author as being "a writer with a very vivid and eloquent literary style" and had "no doubt that his work is colored considerably by his literary imagination, although basically I believe that he understood and developed the views of the Communist Party" (R. 341 and 342). Study of this work establishes that the witness' qualification that the writing undoubtedly is "colored considerably" by the author's "literary imagination" is without foundation. The treatise is a good and accurate explication of "Marxist-Leninism" applied to the United States. The fact that it bears out all the material aspects of the ideology exactly as discerned in the writings of Lenin and Stalin, and the doctrinal pronouncements of the Communist International, is a point of substantial importance. It confirms the conclusions reached: that the Communists view the American Government as the "instrument of power in the hands of the big in-

dustrialists, bankers, and landlords" (pp. 30 to 32 incl. of Ex. 25); the Communists propose to abolish the American capitalist state, not by "gradual transformation", but by destroying it (p. 43 of Ex. 25); in the event of the involvement of the United States in imperialist war, the Communists intend to transform that war into civil war, and "victory in the civil war spells the doom of the capitalist state" (p. 59 of Ex. 25); the Communists intend to overthrow the capitalist system, including the capitalist state, "if under conditions of a severe capitalist crisis, the majority or even a considerable minority of the working class is ready to wage a determined armed fight for the overthrow of the capitalist system" and the workers recognize the Communist Party as "their leader in struggles against capitalism" (pp. 73 to 75 incl. of Ex. 25); and the Communists propose that when the capitalist state has been crushed (overthrown), the social revolution, acting through armed workers and soldiers, will establish the Soviet State as the instrument of the workers' and poor farmers' power (p. 77 of Ex. 25). Above all, the treatise makes it clear that "the Communist Party is the vanguard and general staff of the workers (and poor farmers) in their struggle against the old system, in their revolution against it and in the upbuilding of the new system . . . The Communist Party is a political party. Its aim is to effect the seizure of political power by the workers) (p. 81 of Ex. 25). The pamphlet iterates the Leninist teaching with respect to the "revolutionary parliamentarism" of the Communist Party, and makes it clear that the Party's parliamentary activity is wholly obstructive to the capitalist government (pp. 83 and 84 of Ex. 25).

The foregoing makes it evident that this pamphlet "Why Communism" is the most plain-spoken document in the record evidencing the revolutionary advocacy of the Communists. It substantiates the "membership" and "distribution and circulation" deportation charges.

The next document to be considered, "The Communist Party in Action", is another simply written work which constitutes convincing evidence to establish the Communist Party's revolutionary advocacy of the proscribed revolutionary doctrine, subordination to the Communist International, and adherence to the whole of the Marxist-Leninist ideology. At the outset, the writing makes it plain that its object is to convey to the newly joined member of

the Communist Party of the U. S. A., the "ABCs" of Communism. The fact that it is an authoritative treatise as to the principles of Communism is shown by its many direct and significant quoted references to the writings of Lenin, Stalin, and the Communist International. The writing points out that the "Communist Party is organizing and leading the masses in such a way as to educate them and strengthen them for the final overthrow of the capitalist dictatorship and the establishment of the proletarian dictatorship" (p. 7 of Ex. 24).

It is clearly stated in this work that: the "class struggle of the working class" "aims at the overthrow of capitalist rule, the abolition of the capitalist system, and the building up of Socialism as the first stage of Communism, through the establishment of the dictatorship of the proletariat in the form of a Soviet government" (pp. 10 and 11 of Ex. 24): "To win the majority of the working class for the acceptance of . . . the overthrow of the dictatorship of the bourgeoisie and the establishment of the dictatorship of the proletariat, is the chief strategic aim of the Communist Party" (p. 19 of Ex. 24): "The so-called democratic republic of the United States is a capitalist democracy which is a masked, camouflaged form of the dictatorship of the capitalist class . . . for the oppression and suppression of the workers and all the exploited" (pp. 23 and 24 of Ex. 24): "The destruction of the capitalist state—the capitalist democracy—and the establishment of the proletarian state—the Soviet working class democracy—is the first condition to the next phase of the class struggle . . . The Bolshevik Revolution in Russia and the Socialist achievements of the Soviet Union offer the best confirmation of the truth of this fundamental idea of Marxism-Leninism" (p. 24 of Ex. 24).

This document proves (to the extent that the writer represents the views of the Party) very conclusively that the Party adhered to the principle of democratic centralism as stated in the Constitution of the Communist International. For, the pamphlet directly quotes the "democratic centralism" provision of that Constitution, and declares: "it is on the basis of these principles that our Party is organized" (pp. 35 and 36 of Ex. 24). This statement by such a high official of the Party is entitled to be considered authoritative, in the opinion of the Presiding Inspector.

The treatise directly states that "to become a good Communist * * * one must strive to learn and digest the theory and practice of Leninism. The teachings of Lenin offer the only guide to revolutionary action * * *" It further repeats Stalin's assertion that Leninism is fully applicable to other countries than Russia, and declares that Leninism "is the philosophy and guide of the revolutionary movement * * * in all imperialist and colonial countries" (pp. 43 and 44 of Ex. 25). (This authoritative declaration deflates the full-blown contention of the witness Schneiderman with respect to Leninism being a Russian phenomenon.)

The writing forthrightly asserts that "our Party is the United States Section of the Communist International, which is a world Communist Party and each one of us is therefore a member of a world Party" (p. 46 of Ex. 24). It directly quotes the relevant provision of the Constitution of the Communist International and following the very language of that Constitution states that "the decisions of the E. C. C. I. are obligatory for all the Sections of the Communist International and must be promptly carried out. The Sections have the right to appeal against decisions of the E. C. C. I. to the World Congress, but must continue to carry out such decisions pending the decision of the World Congress" (pp. 46 and 47 of Ex. 24).

The document expounds that "international discipline is of course a basic principle in the organization of the Communist International," and significantly quotes from the "Program", which it terms "the program of our World Party", that the International "openly comes out as the organizer of the international proletarian revolution" (p. 49 of Ex. 27).

In short, this pamphlet "The Communist Party in Action" is found to be an excellent summarization of the whole Leninist ideology as adopted by the Communist International and as adhered to by the Communist Party of the U. S. A. It constitutes convincing evidence to support the "affiliation", "membership" and "distribution and circulation" deportation charges.

Five other documents which are in evidence remain to be considered: an article appearing in the July 1929 issue of the Communist magazine published by the Communist Party of the U. S. A., entitled "The Revolutionary Strug-

gle Against Imperialist War", written by H. M. Wicks (Ex. 28): the "Thesis and Resolutions" which the Central Committee of the Party submitted to the Seventh National Convention of the Communist Party in 1930 (Ex. 29): an article appearing in the July 1934 issue of the Communist magazine, entitled "The Socialist Party Convention—A Communist Estimate" by V. J. Jerome: an article appearing in the February 1935 issue of the Communist magazine, entitled "The Socialist Revolution in the United States" by Alex Bittleman (apparently the same individual who wrote "The Communist Party in Action") (Ex. 30): and lastly, a pamphlet entitled "The Ultimate Aim", published in 1935 (Ex. 26).

The magazine article entitled "The Revolutionary Struggle Against Imperialist War" was authenticated by the witnesses Hewitt and Pitcoff, who testified to the fact that the magazine which contains this article was circulated and distributed by the Party (R. 172 through 175, and 264). This article iterates in relation to imperialist war the substance of the Communist International's 1928 "Resolution" on war (Ex. 27), which was found to be the most outspoken official document in evidence. The particular significance of the article lies in the fact that it appears in an issue of the magazine published by the Communist Party of the U. S. A. within a year of the date that the Communist International adopted the "Resolution" on war and very bluntly applies to the United States the very revolutionary precepts laid down in the International's Resolution on war. It thus tends to show the Party's endorsement of the Resolution.

The article freely acknowledges that the steps it advocates to be taken in the United States at time of imperialist war amount to efforts "to bring about the defeat of 'our own government'". It frankly asserts that the Communists' revolutionary agitation and propaganda during such a war would be "calculated to cause defections and mutiny in the ranks". The article openly reveals its revolutionary advocacy in the following trenchant passages (p. 358 of Ex. 28):

> "While the capitalists prepare for another imperialist war, we prepare to utilize the difficulties for capitalism arising out of such a war in order to initiate the next stage of the world revolution.

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"We realize that such a conflict requires careful preparation under the leadership of a determined Bolshevik party. Turning an imperialist war between nations into a civil war against capitalism is not a simple matter * * * It requires the most highly developed revolutionary strategy and an ability to estimate the relative forces involved in the struggle as well as the precise moment for the launching of an insurrection.

"When a revolutionary situation is developed, as a result of war *or from any other cause, the Party of the Proletariat must lead a direct attack upon the capitalist state.* The slogans put forth must be of such a nature as to guide the movement in its development, which will take the form at first of mass strikes and armed demonstrations. In that state there arises the question of arming the workers and disarming the capitalist class. *Finally the highest form of struggle* is reached wherein it culminates *in the general strike* and a merging of large sections of the military forces and the workers for *armed insurrection against the capitalist state power.*" (Inspector's Note: Italics supplied.)

The foregoing quoted section of the article exactly epitomizes the approach to the successful "seizure of power", prescribed by Leninism and adopted in the "Program" of the Communist International. It is to be noted that the above-stated course of revolutionary action is to occur "when a revolutionary situation is developing", whether it be a result of war or any other cause. This conforms to Lenin's formulation of the fundamental law of revolution. The fact that the Party published such an outspoken article in its magazine indicates that the Party held the views expressed in it. Accordingly, it is found that the "membership" and "circulation and distribution" deportation charges are cumulatively supported by this article.

The next document to be considered is the "Thesis and Resolutions" submitted to the Seventh National Convention of the Party (Ex. 29). These were authenticated as being official Party utterances by the witnesses Hewitt and Pitcoff who testified to their circulation and distribu-

tion by the Party (R. 146 and 265). However, the witness, Schneiderman identified them only as drafts submitted by the Party's Central Committee to the Convention. He testified that he could not recall whether they had been adopted without amendment by the Convention (R. 346 and 347). It is the view of the Presiding Inspector that in any event this "Thesis and Resolutions" are as official as the Reports of the General Secretary to the Ninth and Tenth Conventions, which respondent's Counsel introduced in evidence. The "Thesis" in discussing the preparations of "American Imperialism" for war, asserts that "the Communist Party must carry thru an intensive and continuous campaign for the popularization of Lenin's teachings on the struggle against war, propagating the slogan of the transformation of imperialist war into civil war, the defeat of 'our own' capitalist government, for the overthrow of 'our own' bourgeoisie" (pp. 13 and 14 of Ex. 29). It also refers approvingly to utterances of the Communist International (pp. 3 and 4 of Ex. 29). The "Thesis' " Leninist declaration with respect to imperialist war is sufficient to establish it as a document cumulatively supporting the "membership" and "circulation and distribution" deportation charges.

The magazine article entitled "The Socialist Party Convention—A Communist Estimate" appearing in the July 1934 issue of the Communist magazine was sufficiently identified by the witness, Schneiderman, to allow its admission into evidence (R. 421 to 426 incl.). This article, as the title indicates, constitutes a study from the Communist point of view, of a convention held by the Socialist Party of the U. S. A. It is noteworthy that this article follows exactly Lenin's, Stalin's, and the Communist International's general criticism of social-democracy. The article asserts in connection with its analysis of a certain Socialist writing that the objective of the working class is the "seizure of power" (p. 621 of Ex. 45). Then in relation to a Socialist Program put forth by a New York group of Socialists which stated that "the way to political power in democratic countries will, in all probability, be the way of an electoral victory, if fascism will not intervene and make an end to democracy", the article under discussion significantly declares that such a proposed program shows that the self-styled "militant" socialists are preparing to

"add an American chapter to the history of Social-democratic betrayals of proletarian revolutions" (p. 624 of Ex. 45). Then, immediately following, the article points out that when a socialist program "leaves out of its program the basic Marxian teaching on the shattering of the bourgeois State apparatus, the 'preliminary condition' without which the proletariat in alliance with the poor farmers cannot make its revolution, IT LEAVES OUT THE DICTATORSHIP OF THE PROLETARIAT" (Inspector's Note: italics in the original). "Seizure of power remains but an empty phrase, without the road to power" (p. 625 of Ex. 45).

This latter observation in the article is, as has been perceived from analysis of Lenin's and Stalin's writings, and the "Program of the Communist International, a proper statement of the basic Leninist principle. It is indeed interesting to note that by a sophistic quirk, the witness, Schneiderman, adopts the very socialist position that this article terms "a social-democratic betrayal of proletarian revolution", as the Communist view. Apparently through some legerdemain of the witness, black has become white and the excoriated socialist position becomes the Communist stand.

The article under discussion clearly reveals what the Communists have actually advocated in the following passage (p. 630 of Ex. 45):

> "* * * One who lays claim to the title SOCIALIST must know that the end of capitalism will not come through the attainment of a majority vote of the workers (for the capitalists will never yield their power because of democratic principles) nor through the automatic collapse of the present order. The end of capitalism will come through its revolutionary overthrow by the working class in alliance with and leading the toiling masses of city and country. It will come through the establishment of the revolutionary dictatorship of the proletariat. * * *".

(In the very same issue of the magazine appear the two editorials of the Communist Party which were entered into evidence at the original hearing and which were discussed in the original Opinion (Exs. 15 and 16). One of these Party editorials speaks (as has been quoted earlier)

of the forcible overthrow of capitalism, the destruction of the bourgeois state machine and the establishment of the dictatorship of the proletariat (p. 615 of Ex. 15). The other Party editorial asserts: "Communists know and say that the Roosevelt Government * * * is the government of the very biggest and most powerful capitalists. * * * It remains as it was under Hoover—a government run by an executive committee of the capitalists." (p. 661 of Ex. 16)).

In relation to the Socialist Party's anti-war declaration, the article asserts that it is essentially the same as the position on war adopted by Kautsky which Lenin criticised. The article then significantly states: "The distinguishing characteristic of the truly revolutionary position on war is, as Lenin taught, its expression in a program of action that puts forward as the central task the transformation of the imperialist war into civil war" (p. 632 of Ex. 45).

Finally, the article closes with a declaration that the Communist Party "is the Party that sets itself as the central task the unification of Socialist and Communist workers for the winning of the American class for the revolution, for achieving a Soviet America!" (p. 638 of Ex. 45).

This article clearly reveals advocacy of the proscribed objective. Its appearance in the Communist Party's magazine along with the two above-mentioned Party editorials is a point of cumulative importance in relation to the crucial issue. Consequently, it constitutes cumulative evidence to support the "membership" and "distribution and circulation" deportation charges.

The magazine article entitled "The Socialist Revolution in the United States" was authenticated by the witness Hewitt (R. 177). The circulation and distribution by the Party of the issue of "The Communist" containing this article was testified to by both Hewitt and Schneiderman (R. 177 and 348). The article declares that "the Communist Party * * * sees its historic task in organizing and leading the American working class and its allies to the victory of the Socialist revolution—the establishment of the dictatorship of the proletariat and the building of Socialism in the U. S. A. The C. P. U. S. A. proceeds from the Marxist-Leninist theory of the proletarian revolution * * *" (p. 127 of Ex. 30). The article quotes extensively

from the utterances of the Communist International, and the writings of Lenin and Stalin in relation to the proletarian revolution. It ends with the statement that what the Communist International had set forth with respect to the proletarian (and negro) revolution in the United States "is the policy of the Communist Party of the United States". In substance, the article emphasizes the adherence of the Communist Party to all the Marxist-Leninist ideological precepts regarding the proletarian revolution. The appearance in the Party magazine of this article, which flatly purports to state Party policy, is a good indication that the article's contents met with the approval of the Party. It is the determination of the Presiding Inspector that this article cumulatively sustains the deportation charges of "membership" and "circulation and distribution".

The remaining document to be discussed is "The Ultimate Aim". This pamphlet was identified only by the witness, Hewitt, who testified to its circulation and distribution by the Party, and to the Party's use of it in the various schools of the Communist Party (R. 170). It appears to be an authoritative review of the Marxist-Leninist ideology intended for use as a textbook. It clearly asserts: "Socialism takes the place of capitalism only as a result of the proletarian revolution and the dictatorship of the proletariat. It is essential for the victory of socialism *to overthrow the rule of the bourgeoisie by force* and to establish the rule of the proletariat" (p. 19 of Ex. 26). Study of the document as an entity discloses that it fully conforms to the Marxist-Leninist ideology. Accordingly it is concluded that this pamphlet constitutes additional cumulative evidence to support the "membership" and "distribution and circulation" deportation charges.

With respect to the oral evidence in the record, it was remarked earlier that the "expert" testimony on both sides of the crucial issue is subject to the limiting factors of partiality and inner inconsistency, and that therefore the Presiding Inspector considers the oral "opinion" evidence to be of less importance in relation to resolution of the crucial issue than the documentary evidence. The references in this Opinion during the course of the analysis of the documentary evidence, to the testimony of the witness Schneiderman have noted the divergency of his statements

from the clear import of the writings of Lenin and Stalin, and the official Communist utterances, in evidence and the fact that his position in relation to the crucial issue amounts to assumption by him of the Kautskyist socialist viewpoint denounced by Lenin and Stalin as traitorous to the proletarian movement.

Schneiderman evinced partiality in his testimony by repeatedly going beyond the scope of the specific question to testify to matters which were not strictly relevant to the quory asked, and by raising specious objections to "having words put" in his mouth, and by constantly interrupting the questioner. He quibbled and gave sophistic answers, such as his above-discussed statements that Lenin's writing of "State and Revolution" and his precepts in general were connected only with the deposition of the Czar and that the "Dictatorship of the Proletariat" referred to relations between classes. At one point he speciously declared that Stalin "must have been thinking of the south" when he wrote a general criticism of "capitalist democracy" (R. 399 to 401 incl.), even though he, himself, said that he had not "been at the elbow" of the writer and could only read the English of the text (R. 403). Later he volunteered the statement that the American government was just what Leninism declares all bourgeois democracies are—a "merger of a financial oligarchy and a military bureaucracy, with the state apparatus" (R. 525).

There are a number of instances of self-inconsistency on the part of the witness. For example, he first declared in effect that in its early days the Party interpreted Marxism mistakenly in holding that the Russian experience "must necessarily apply to a democratic America". Then he immediately retracted this statement, asserting that the Party did not hold that view but people outside the Party did (R. 372 and 373). Lated, when confronted with an official 1934 Party utterance advocating the establishment of a dictatorship of the proletariat, Soviet Power, in the United States, he said in substance that the Party did make errors in the early days but the Communist understanding of Marxism "has developed to the point where we recognize errors of previous and earlier days" (R. 436). Then when further pressed with respect to his own understanding of the term "Soviet Power", he acknowledged "well, I am a different person than I was in

1934 and I think my views can have developed and matured since then" (R. 438). (Of course, one year later, in 1935, the immediate tactical Communist line was altered at the Seventh World Congress. Hence the Communist view was changed "in the light of" the Congress' decisions.)

When the testimony of the witness, Schneiderman, is carefully analysed, it becomes apparent that he conceded every one of the Marxist-Leninist premises even though he denied the conclusion which flows logically from them. He admitted that the basic principles adhered to by the Communist Party have never changed and that these basic principles are the principles of "Marxism-Leninism" (R. 351 and 352). He acknowledged that the theoretical writings of Lenin in evidence are basic Leninist documents (R. 360). He testified that in his own view "as a Marxist, as a Leninist, * * * force and violence entered into *all* social changes because those ruling classes that were being ousted * * * would *always* use violence to prevent the democratic will of the people from being realized * * *" (R. 365). He admitted that it is a tenet of Marxism-Leninism that in time of crisis the bourgeoisie attempts to place the full brunt of the depression on the working class and would use all the power of the state to keep the working class down even by the use of force and violence by the police (R. 374 and 375). He testified that this tenet is applicable to the United States (R. 375).

He declared to be morally justified the use of force to resist the application of such legal force by instrumentalities of the state as he as an individual (and presumably as a Communist) considered to be improper (R. 375). He acknowledged that necessity for the Communist use of force and violence would arise if the old ruling class refused to give up power (R. 385). He agreed that the Communist Party theoretically subscribed to the "scientific principles of Marx, Engels, Lenin and Stalin as embodied in the Communist International" (R. 508). He admitted to be fully applicable to the United States the International's precept that the exploitation relationships and economic domination of the bourgeoisie are expressed politically in the organized capitalist state which is the instrument for the suppression of the proletariat (R. 510 and 516). He acknowledged that another of the Inter-

national's principles, that capitalism places the masses of the proletariat to an increasing degree in opposition to the capitalist state, also was fully applicable to the United States. He testified, as aforementioned, that the present government in the United States exemplifies "what Lenin said about the finance capital ruling the country" (R. 525). He admitted, further, that it is the Leninist view that the liberation of the oppressed classes in the state is impossible without a violent revolution and without the destruction of the apparatus of state power (R. 526 and 527). Moreover, he acknowledged in effect that Lenin taught (upon the basis of the Russian experience) that the revolutionary proletariat first had to overthrow the bourgeoisie and break up the bourgeois state apparatus and then gain the support of the non-proletarian masses by satisfying their wants at the expense of the exploiters (R. 545) and that the shattering of the state machinery in America as well as in Europe was the precondition of any real people's revolution (R. 546).

Yet withal, despite his concession of the applicability of these Leninist premises, the witness would not concede the applicability to the United States of the culmination of these Leninist teachings—the necessity for the proletariat's forcible and violent overthrow of the bourgeoisie and its state power by means of an insurrection. He insisted that the American Communists "always granted the theoretical possibility that there could be a peaceful transition" (R. 532). The witness' sophistry in relation to this position is very evident on two grounds; first, he contended that the "conquest of Power" in the manner set down by Lenin applied only "to countries that had similar conditions as in Russia" (R. 534 and 535). Yet, Russia had a bourgeois democracy, albeit a weak government in the throes of a great crisis, at the time the Bolsheviks seized power; second, he testified that while the American Communists adhered to the Leninist principles, they would not seek to apply them in a way that did not fit the American scene (R. 535). Yet, he conceded that the American scene was exactly illustrative of the Leninist teaching as to the general nature of all bouregois governments. Further, the Leninist "fundamental law of revolution" indicates what conditions in America would call for revolutionary action on the part of the Communists.

It is therefore the finding of the Presiding Inspector that the opinion testimony of the witness, Schneiderman, on the crucial issue, is totally discredited.

The "opinion" testimony of the respondent, himself, with respect to the crucial issue is subject to the same strictures as that of the witness, Schneiderman. His partiality was pointed out in the original Opinion (O. 59 and 60) and has been touched upon previously in this Opinion. Like Schneiderman, the respondent conceded the applicability of the Leninist premises to the United States, but denied the applicability to the United States of the conclusion in which the premises culminate. On the same grounds, his "expert" testimony is considered to be entitled to no weight.

Likewise, little, if any, reliance is placed upon the opinion testimony in respect to the crucial issue of the witness, Hewitt. He revealed partiality by too quickly responding to the questions of the Examining and Presiding Inspectors and too reluctantly answering Counsel, and by too readily volunteering replies which went beyond the questions asked by the Government. However, his testimony as to the facts of his experiences in the Party and as to his knowledge of the documents impressed the Presiding Inspector to be, on the whole, credible, though embellished. This considered judgment of the Presiding Inspector takes into account the few inaccuracies in the witness' testimony adduced during cross-examination.

With respect to the witness, Pitcoff, it is the determination of the Presiding Inspector that he was generally a reliable witness and that his "opinion" testimony is entitled to some weight, limited only by the extent of his experience in the Party. He testified to the Party's advocacy of a forceful revolt against the Government of the United States (R. 267 through 269). The highest position he held in the Party was that of National Secretary of the Building Trades fraction, a position which he held for about two years (R. 257). Since he resigned from the Party in 1934, the force of his "opinion" testimony does not extend beyond that year. It is the view of the Presiding Inspector that considering that he held the Party positions of Unit and Section Organizer, and Fraction Secretary for a toal of eight years, the witness was in a responsible enough position to know the party doctrines. He tes-

tified that it had been incumbent upon him as Section organizer "to know the doctrines and teachings of the Communist Party" (R. 257). Accordingly, it is found that the "opinion" testimony of this witness cumulatively supports the "membership" deportation charge.

So then, the substantial weight of the expert "opinion" testimony, both written and oral, overwhelmingly supports the conclusions that have been reached on the basis of direct analysis of the writings of Lenin and Stalin, and the official utterances of the Communist International and the Communist Party of the U.S.A. Cumulatively, all of this evidence makes out a strong case against the respondent personally and indisputably establishes the advocacy of the proscribed doctrine by the Communist International and the Communist Party. These organizations postulated and taught, during the period of respondent's association with them, the necessity for organizing, and preparing the proletariat under the leadership of the Communist Party forcibly and violently to overthrow the bourgeoisie and its state power—the Government of the United States—by means of an insurrection, in the United States.

These organizations have avowed adherence to the Leninist ideology, which postulates that the Communists must organize "all Party work on * * * revolutionary lines, with a view to training and preparing the masses for the revolutionary struggle" because "only in this way can the masses be prepared for the proletarian revolution" (p. 22 of Ex. 22) and that it is necessary to foster this, and only this, point of view among the masses—that "the replacement of the bourgeois by the proletarian state is impossible without a violent revolution" (p. 20 of Ex. 20). Therefore there can be no denying that their precepts involve "advising", "advocating" and "teaching" as those words are used in the 1918 Deportation Act. These organizations endorsed the Leninist dicta that such a bourgeois democracy as the United States is the state instrumentality of the bourgeoisie which applies force whenever needed to suppress the proletariat and other repressed classes in Society and that such a bourgeois democracy provides the proletariat with the opportunity to organize and then "to crush, to smash to bits * * * the bourgeois state machinery—even its republican variety; the standing army, the police, and bureaucracy" and to

substitute in its place the "state machinery * * * of armed masses of workers" (pp. 82 and 83 of Ex. 20). Unquestionably, the holding of such views constitutes belief in and advocacy of the forcible change, rather than the peaceable evolution, of such a bourgeois democratic state into a proletarian dictatorship.

As noted in the original Opinion, the respondent held a relatively high position in the Communist organization for many years; for several years he participated in controlling the policies of a Communist newspaper; he is a literate, intelligent individual; he was active in the national affairs and in the organizational work of the Party (O. 57). There appears to be no question but that he held a Communist Party membership book identical with the one in evidence (Ex. 18) which contains excerpts from the Party's statutes clearly setting out the obligatory subordination of the Party and of the individual member to the Communist International, as aforementioned. As discussed at length in the orginial Opinion, respondent's testimony revealed his adherence to all the essential Leninist premises except the culminating precept involved in the crucial issue in the case. It was determined in the original Opinion that the proscribed views found to have been advocated by the Communist Party and the Communist International could fairly be ascribed to the respondent (O. 57). The mass of additional cumulative evidence adduced at the reopened hearing incontrovertibly substantiates the crucial finding that these organizations, and the Marxist-Leninist ideology to which they adhered, advocated the forcible overthrow of the Government of the United States. This same mass of evidence immeasurably reinforces the finding that the same advocacy can be ascribed to the respondent.

So then, for the foregoing reasons, the finding in the original Opinion as to respondent's past personal belief in and advocacy of the proscribed doctrine is affirmed.

II. Proposed Findings of Fact—as to Deportability

Upon the basis of all the evidence in the record adduced at the 1946-1947 and 1948 hearings in this case, it is found:

(1) That the respondent is an alien, a native and citizen of Greece;

(2) That respondent's sole entry to the United States was effected on March 7, 1916 at the Port of New York, ex SS "Vasilefs Constantinos", when he was admitted to the United States for permanent residence;

(3) That from 1925 to 1939 the respondent was affiliated with the Communist International, an organization which at least during the period from 1928 to 1939 believed in, advised, advocated, and taught the overthrow by force and violence of the Government of the United States;

(4) That from 1925 to 1939 the respondent was a member in good standing of the Communist Party in the United States, an organization which, during at least the period from 1928 to 1939, believed in, advised, advocated, and taught the overthrow by force and violence of the Government of the United States;

(5) That the said Communist Party in the United States, during at least the period from 1928 to 1939, circulated and distributed, and caused to be circulated and distributed, printed matter advising, advocating, and teaching the overthrow by force and violence of the Government of the United States; and

(6) That the respondent has since at least 1928 believed in and advocated the overthrow by force and violence of the Government of the United States.

III. Proposed Conclusions of Law—as to Deportability

Upon the basis of the foregoing findings of fact, it is concluded:

(1) That under the Act of October 16, 1918, as amended, the respondent is subject to deportation, in that he is found to have been, after entry, a member of the following class set forth in Section 1 of said Act: An alien who is affiliated with an organization, association, society, or group that believes in, advises, advocates, or teaches the overthrow by force or violence of the Government of the United States;

(2) That under the Act of October 16, 1918, as amended, the respondent is subject to deportation, in that he is found to have been, after entry, a member of the following class set forth in Section 1 of said Act: An alien who is a member of an organization, association, society, or group that believes in, advises, advocates, or teaches the overthrow by force or violence of the Government of the United States;

(3) That under the Act of October 16, 1918, as amended, the respondent is subject to deportation, in that he is found to have been, after entry, a member of the following class set forth in Section 1 of said Act: An alien who believes in, advises, advocates, or teaches the overthrow by force or violence of the Government of the United States;

(4) That under the Act of October 16, 1918, as amended, the respondent is subject to deportation, in that he is found to have been, after entry, a member of the following class set forth in Section 1 of said Act: An alien who is a member of an organization, association, society, or group that writes, circulates, distributes, prints, publishes or displays, or causes to be written, circulated, distributed, printed, published, or displayed, written or printed matter advising, advocating or teaching the overthrow by force or violence of the Government of the United States;

(5) That the respondent is not subject to deportation on the ground that he has been found in the United States in violation of the Act of October 16, 1918, as amended by the Act of June 5, 1920, in that he is a member of, or affiliated with an organization, association, society, or group that believes in, advises, advocates, or teaches the overthrow by force or violence of the Government of the United States or of all forms of law;

(6) That the charge that the respondent is subject to deportation in that he is found to have been, after entry, a member of the following class set forth in Section 1 of said Act: An alien who is a member of and affiliated with an organization, association, society, and group that advises, advocates, and teaches

the overthrow by force and violence of the Government of the United States, is a redundancy; and

(7) That under Section 20 of the Immigration Act of February 5, 1917, the respondent is deportable to Greece at Government expense.

IV. Other Factors

As discussed in the original Opinion (O 64), the respondent is deportable on grounds specified in Section 19(d) of the Immigration Act of 1917, as amended, and consequently is ineligible to be considered for discretionary relief under Section 19(c) of that Act. Further, the Act under which the respondent has been found deportable contains its own deportation provision and provides for imprisonment and redeportation if following deportation under the Act, reentry is made or attempted. Hence, deportation is mandatory in this case.

However, in accordance with current regulations, the respondent was advised at the reopened hearing of the provisions of the regulation permitting him to apply for discretionary relief. Counsel, recognizing the respondent's ineligibility for any form of discretionary action in case the deportation charges were found to be sustained, declined to apply in respondent's behalf for any relief from deportation (pp. 600, 601). So, then, despite the personal hardship mentioned in the original opinion (O 64), the respondent's deportation must be recommended.

V. Proposed Order

It is recommended that an Order of Deportation be entered directing the alien respondent's deportation to Greece at Government expense on the four sustained deportation charges set forth in the preceding Section (Section III, (1) to (4)) dealing with the Proposed Conclusions of Law as to Deportability.

June 24, 1948

Gilbert Zimmerman
Presiding Inspector

Exceptions to the Opinion of Presiding Inspector Zimmerman, Dated June 24, 1948, on the Reopened Hearing

UNITED STATES DEPARTMENT OF JUSTICE

[SAME TITLE]

Pursuant to 8 C. F. R. 150.7(e), exceptions are hereby taken on behalf of the above-named respondent to the opinion of the Presiding Inspector dated June 24, 1948, in the above-named case.

II. PROPOSED FINDINGS OF FACT—AS TO DEPORTABILITY

Exception is taken to so much of proposed finding of fact numbered (2) as fails to state that respondent "was (lawfully) admitted to the United States for permanent residence."

Exception is taken to findings numbered (3), (4), (5) and (6).

III. PROPOSED CONCLUSIONS OF LAW—AS TO DEPORTABILITY

Exception is taken to proposed conclusions of law numbered (1), (2), (3), (4) and (7).

V. PROPOSED ORDER.

Exception is taken to the proposed order and to the failure of the Presiding Inspector to propose the following order:

> It is recommended that the warrant of arrest issued in 1930 and served upon the respondent in 1946 be cancelled, and the deportation proceedings together with all charges lodged in the course thereof be dismissed.

Dated: June 28, 1948.

Respectfully submitted,

CAROL KING
Attorney for Respondent
220 Broadway
New York 7, N. Y.

Opinion of Assistant Commissioner of Immigration and Naturalization Under Date of December 16, 1948

U. S. Department of Justice

Immigration and Naturalization Service

File: A-5300756 (55696/820)—(New York 99183/146 (2271-422209) (Appeal-15)

In re: Peter Harisiades, or Panagiotis Harisiades, or Panagiotis Hatzihias, or Peter Hasselas, or Pete Harrison

In Deportation Proceedings

In Behalf of Respondent:

Carol King,
220 Broadway
New York, N. Y.

and

Isidore Englander, Associate Counsel
205 East 42nd Street
New York, N. Y.

Charges:

Warrant: Act of October 16, 1918 as amended by Act of June 5, 1920—That he is a member of or affiliated with an organization, society, or group that believes in, advises, advocates, or teaches the overthrow by force or violence of the Government of the United States or of all forms of law.

Lodged:

(1) Act of October 16, 1918, as amended—Found to have been after entry a member of the following class set forth in Section 1 of said Act: An alien who believes in, advises, advocates, or teaches the overthrow by force or violence of the Government of the United States.

(2) Act of October 16, 1918 as amended—Found to have been after entry a member of the following class set forth in Section 1 of said Act; An alien who is a member of an organization, association, society or group that believes in, advises, advocates, teaches

the overthrow by force or violence of the Government of the United States.

(3) Act of October 16, 1918 as amended—Found to have been after entry a member of the following class set forth in Section 1 of said Act; An alien who is affiliated with an organization, association, society or group that believes in, advises, advocates, or teaches the overthrow by force or violence of the Government of the United States.

(4) The Act of October 16, 1918, as amended, in that he is found to have been after entry, a member of the following class set forth in Section 1 of said Act: An alien who is a member of and affiliated with an organization, association, society, and group that advises, advocates, and teaches the overthrow by force and violence of the Government of the United States.

(5) The Act of October 16, 1918, as amended, in that he is found to have been, after entry, a member of the following class set forth in Section I of of said Act: An alien who is a member of and affiliated with an organization, association, society, and group, that writes, circulates, distributes, prints, publishes, and displays, and causes to be written, circulated, distributed, printed, published, and displayed, and that has in its possession for the purpose of circulation, distribution, publication, issue, and display, written and printed matter advising, advocating, and teaching the overthrow by force and violence of the Government of the United States.

APPLICATION: To remain in the United States and that warrant proceedings be cancelled.

DETENTION STATUS: Released under own cognizance.

1. INTRODUCTION

A. *Respondent's Personal History*

The respondent testified he is a native and national of Greece, who has resided in the United States since 1916. He claims that he was then about 13 years of age and iden-

tified a record of admission in 1916 (Ex. 2), as relating to him. This entry-record shows the arrival of Panagictis Hadjielias on March 7, 1916 at New York. In addition to such name the respondent stated that he had also used the name of Pete Hagelias, Pete Harrison, and Peter Harisiades. A variation in spelling of Hadjielias but phonetically similar was also used: to wit, Hatzilias. He will be referred to hereafter as Peter Harisiades or as respondent.

The respondent states he came here with his father who later returned to his native country. He states that he became a member of the Socialist Labor Party of America about 1922 or 1923 at Akron, Ohio and remained a member until about 1925 (p. 18); that he joined the Workers (Communist) Party about 1925, and such organization changed its name to the Communist Party of the United States of America about 1929 while he was a member. He remained a member of the Communist Party of the U. S. A. until dropped in October 1939 because of his non-citizenship (pp. 18-20, 39, 48-49). He stated that in 1932 he became a member of the Greek Bureau of the Communist Party of the U. S. A., (a sub-division thereof); and that he became a secretary of this Greek Bureau of the Communist Party of the U. S. A., in 1933. He was associated with its publication, the *Empros*, from 1933 up to about October 1939, serving in the capacity of "sort of an editor" on the writing staff.

In addition to the above organization membership, the respondent stated that he became a member of the International Workers Order in 1935 and has remained a member thereof since. This included a period of membership in a branch of the International Workers Order known as the Hellenic American Fraternal Society (p. 16) from about 1933 to about 1940. In 1941 he belonged to a Greek club in New York called "Spartacus" (p. 16). The respondent also stated that he is a member of the Greek American Council, which was organized to acquaint the American public with the International Liberation Front of Greece, called "EAM", and has been such a member since about 1944 (p. 17).

The respondent admitted that he worked as an organizer for the Workers (Communist) Party and the Communist Party of the U. S. A., at least for a period from about

1928 through 1930. He admits that he was arrested for "strike activities" about three times at New Bedford, Massachusetts about 1928; about four or five times between 1928 and 1930 at Fall River, Massachusetts for "strike activities" and once at Wheeling, West Virginia for "unemployment demonstrations", in 1930 (pp. 13-14).

B. *History of these Proceedings*

On March 6, 1930 a sworn statement was taken from the respondent at New Bedford, Massachusetts by this Service (Ex. 6). It was signed by him in the presence of two officers of this service. As a result a warrant of arrest was issued on April 12, 1930 (Ex. 1) charging him with having been found in the United States in violation of the Act of October 16, 1918, as amended by the Act of June 5, 1920, on the ground of membership in or affiliation with an organization that believes in, advises, advocates, or teaches the overthrow by force or violence of the Government of the United States or of all forms of law. This warrant was issued because in his sworn statement on March 6, 1930, he had asserted that he was a section organizer of the Communist Party, at New Bedford, Massachusetts, for about 10 or 11 months; that he did not believe in the Government of the United States as it was then constituted; that it was the purpose of his Party to overthrow the form of Government here then and to establish a worker's government. At that time he denied that he or his Party believed in violence to accomplish such purpose.

This sworn statement was taken from him at New Bedford, Massachusetts on March 6, 1930. Thereafter this Service was unable to locate him to serve a warrant of arrest upon him at New Bedford, Massachusetts. He was looked for in Boston, Massachusetts in May, 1930; at a certain address in New York in June 1930; and at Milwaukee, Wisconsin in January 1931. He now states he never sought to avoid process, that he moved about for a few years until he settled in New York or Brooklyn about 1933. His case was reactivated in 1943 by checking his alien registration record as a preliminary to an investigation. Later, his whereabouts was ascertained. On May 2, 1946, the warrant of arrest was served.

Department of Justice Record Annexed to the Return

Opinion of Assistant Commissioner of Immigration and Naturalization Under Date of December 16, 1948

Hearings were conducted on October 15, 1946 and January 30-31, 1947. The first three lodged charges mentioned above were urged by the Government against the respondent and deportation to Greece was recommended thereon by the Presiding Inspector on March 11, 1947. The record was forwarded to the Central Office in May 1947 and thereafter a brief was submitted by Counsel. Shortly thereafter, on August 5, 1947, the hearing was ordered reopened by the Commissioner of this Service in accordance with the provisions of Part 150.8, Title 8, Code of Federal Regulations. It directed that the case be reopened for the proper authentication of documents already introduced in evidence, for the reception of additional evidence, and should the facts warrant, for the lodging of certain additional charges.

Reopened hearings were accordingly conducted on February 18-19, 1948 at which time two charges were added to the previous lodged charges (No. 4 and No. 5 of above lodged charges). At counsel's request accommodation was granted for continuance of the hearing and hearings were conducted in this case on March 9-10, 1948. The Presiding Inspector made his findings on June 24, 1948 and the Examining Inspector noted his exceptions thereto on June 30, 1948. At counsel's request, several extensions of time in which to submit a brief was granted, until October 19, 1948. On October 19, 1948 counsel submitted a supplemental brief and presented oral argument on that date at the Central Office. Counsel excepts to findings of deportability, asks that warrant proceedings be cancelled, the alien to remain here and to be allowed to proceed toward naturalization.

C. Authority for Ordering the Hearing Reopened on August 5, 1947.

Counsel has attacked the order of the Commissioner of August 5, 1947, which directed that the warrant hearing be reopened before decision, under the provisions of 8 CFR 150.8. Counsel asserts there was no "proper cause" for reopening, and that this was done in bad faith to harass the respondent. Counsel contends that the reopened hearings after August 5, 1947 were without adequate authority and hence should not be considered in the determination of this case.

The relevant portion of 8 CFR 150.8 is quoted herewith:

> "The Commissioner may direct a reopening of the record of hearing for proper cause at any time prior to such time as an appeal from his order may be entered in accordance with the provisions of Section 90.3(a) of this chapter."

As stated, the hearing in this case was ordered reopened on August 5, 1947 to authenticate documents already introduced into the record, to receive additional evidence, and, should the facts warrant, to lodge two additional charges. It is palpable that such cause for reopening was strictly pertinent to the proceedings, and was reasonable, appropriate, and timely in connection with good administration to assure proper disposition of the case.

There can be no question that the matter of determining "proper cause" under this regulation, is for the Commissioner to decide. A number of factors may be considered in reaching such a decision. But in this case there is no evidence that the Commissioner exercised judgment either improperly, capriciously, or arbitrarily in this matter of reopening on August 5, 1947. Indeed, it is plain from the order itself what the proper cause was. In no sense has it constituted error, prejudicial or otherwise. The alien was at large, released on his own recognizance, during the intervals between the hearing dates. He was given ample notice of the intention to reopen. (Five months elapsed after the hearing was ordered reopened and the parties sent their notices, before reopened hearings began). The alien was accorded plenary opportunity to properly present evidence on the issues and to show cause why deportation should not ensue, during the course of the reopened hearings. In fact, final hearings were deferred at the alien's counsel's request, from February 19 to March 9, 1948. Accordingly the order directing reopening on August 5, 1947 must be considered valid and counsel's argument on this score is overruled. The hearing record will be considered in its entirety.

2. The Deportation Statute

The warrant charge is based on the Act of October 16, 1918 (40 Stat. 1012), as amended by the Act of June 5, 1920 (41 Stat. 1008) which reads as follows:

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That the following aliens shall be excluded from admission into the United States:

(a) Aliens who are anarchists;

(b) Aliens who advise, advocate, or teach, or who are members of or affiliated with any organization, association, society, or group, that advises, advocates, or teaches, opposition to all organized government;

(c) Aliens who believe in, advise, advocate, or teach, or who are members of or affiliated with any organization, association, society, or group, that believes in, advises, advocates, or teaches: (1) the overthrow by force or violence of the Government of the United States or of all forms of law, or (2) the duty, necessity or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government, because of his or their official character, or (3) the unlawful damage, injury or destruction of property, or (4) sabotage:

(d) Aliens who write, publish, or cause to be written or published, or who knowingly circulate, distribute, print, or display, or knowingly cause to be circulated, distributed, printed, published, or displayed, or who knowingly have in their possession for the purpose of circulation, distribution, publication, or display, any written or printed matter, advising, advocating, or teaching, opposition to all organized government, or advising, advocating or teaching: (1) the overthrow by force or violence of the Government of the United States or of all forms of law, or (2) the duty, necessity or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government, or (3) the unlawful damage, injury or destruction of property, or (4) sabotage;

(e) Aliens who are members of or affiliated with any organization, association, society, or group, that writes, circulates, distributes, prints, publishes, or displays, or causes to be written, circulated, dis-

tributed, printed, published, or displayed, or that has in its possession for the purpose of circulation, distribution, publication, issue, or display, any written or printed matter of the character described in subdivision (d).

For the purpose of this section: (1) the giving, loaning or promising of money or anything of value to be used for the advising, advocacy, or teaching of any doctrine above enumerated shall constitute the advising, advocacy, or teaching of such doctrine; and (2) the giving, loaning or promising of money or anything of value to any organization, association, society, or group, of the character above described shall constitute affiliation therewith; but nothing in this paragraph shall be taken as an exclusive definition of advising, advocacy, teaching, or affiliation. (40 Stat. 1012; 41 Stat. 1008-9; 54 Stat. 673; 8 U. S. C. 137.)

Sec. 2. "That any alien who, at any time after entering the United States, is found to have been at the time of entry, or to have become thereafter, a member of any one of the classes of aliens enumerated in section one of this Act, shall, upon the warrant of the Secretary of Labor, be taken into custody and deported in the manner provided in the Immigration Act of February fifth, nineteen hundred and seventeen. The provisions of this section shall be applicable to the classes of aliens mentioned in this Act irrespective of the time of their entry into the United States.".

Sec. 3. That any alien who shall, after he has been excluded and deported or arrested and deported in pursuance of the provisions of this Act, thereafter return to or enter the United States shall be deemed guilty of a felony, and upon conviction thereof shall be punished by imprisonment for a term of not more than five years; and shall, upon the termination of such imprisonment, be taken into custody, upon the warrant of the Attorney General, and deported in the manner provided in the immigration Act of February fifth, nineteen hundred and seventeen. (40 Stat. 1012-1013; 8 U. S. C. 137.)

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The lodged charges are based on the above Act as further amended by the Act of June 28, 1940 (54 Stat. 673) which reads as follows:

> "That any alien who, at any time, shall be or shall have been a member of any one of the following classes shall be excluded from admission into the United States: (The classes specified under (a) (b) (c) (d) (e) set forth in the above cited statute are repeated here.)
>
> Sec. 2. Any alien who was at the time of entering the United States, or has been at any time thereafter, a member of any one of the classes of aliens enumerated in Section 1 of this Act, shall, upon the warrant of the Attorney General, be taken into custody and deported in the manner provided in the Immigration Act of February 5, 1917. The provisions of this section shall be applicable to the classes of aliens mentioned in this Act, irrespective of the time of their entry into the United States. (40 Stat. 1012; 54 Stat. 673; 8 U. S. C. 137.)

It is clear that the amendment by the Act of June 28, 1940 changed the existing law to "meet the requirements indicated by the Supreme Court in its decision in the Strecker case".[1] In *Kessler* v. *Strecker* (307 U. S. 22, 28, 30 October Term, 1938), the Supreme Court of the United States considered the contention that under the Act of October 6, 1918 as amended by the Act of June 5, 1920 the respondent Strecker was deportable "because, after entry, he became a member of a class of aliens described in Section 1 of the Act, to wit, a member of the Communist Party, an organization membership in which is made a cause of deportation because the organization believes in, advocates, and teaches the overthrow of the Government of the United States by force and violence". This contention presented the question whether the Act rendered *former* membership in such an organization, which had ceased, a ground of deportation. Respondent insisted that such statute made only *present* membership in an or-

1. House of Representatives report No. 994 of 76th Congress 1st Session, 1939 to accompany H.R. 5138, page 6; Senate report No. 1154, 76th Congress 1st Session, Senate Calendar No. 1189 to accompany H.R. 5138, page 5.

ganization described in the Act such ground. The alien in that case had apparently terminated his membership when he was made subject to expulsion proceedings. The majority of the Supreme Court held that the Act of October 16, 1918 as amended by the Act of June 5, 1920 "does not provide for the deportation of such an alien". It stated that, "In the absence of a clear and definite expression, we are not at liberty to conclude that Congress intended that any alien, no matter how long a resident of this country, or however well disposed toward our Government, must be deported, if at any time in the past, no matter when or under what circumstances, or for what time, he was a member of the described organization". It concluded that it was *present* membership or *present* affiliation which required deportation. The 1940 amendment *expressly* included past beliefs, past membership or past affiliation.

D. Objection of Counsel Regarding the Statute

Counsel has characterized the statute, with its 1940 amendment, as unjust. Counsel presented several constitutional arguments as to its validity, construction and application. Whatever the merits of such contentions, counsel does not argue that such statute has been nullified by competent authority[2] or that there is any warrant for this administrative agency to pass upon the constitutionality of the statute.[3] Neither does counsel contend that

2. The statute as amended by the Act of June 28, 1940 was held constitutional in Ex parte Bridges, 49 F. (2d) 292 (N. D. Cal. 1943), as well as in *Bridges* v. *Wixson*, 144 F. (2d) 927-938 (C. C. A. 9, 1944). In the case of *Bridges* v. *Wixson*, 326 U. S. 135 (1945), the Supreme Court of the United States considered a deportation charge under this statute, as amended by the Act of June 28, 1940, but the majority of the Court held that it was unnecessary to consider the constitutional questions advanced in that case.

3. No statutory or other authority was indicated empowering this agency to pass upon the questions of constitutionality. Determination of constitutionality is a judicial function (*Marbury* v. *Madison*, 1 Cranch, 137) see *Smith* v. *Indiana*, 191 U. S. 138, 148.

The prohibitions against "ex post facto" laws under Art. 1, Sec. 9 of the Constitution of the United States have no application to non-criminal actions (*Johannessen* v. *U. S.*, 225 U. S. 227, 242), and deportation is not a criminal proceeding (*Zakonite* v. *Wolf*, 226 U. S. 272, *Bugajewitz* v. *Adams*, 228 U. S. 591). Constitutional limitations relating to "ex post facto" laws have no application to purely administrative proceedings (*Beazell* v. *Ohio*, 269 U. S. 167). The validity of a deportation statute is not affected because it may be retrospective in its operation or its application (*Ng Fung Ho* v. *White*, 259 U. S. 276).

this enforcing agency is relieved from the discharge of its duty of applying the statute.[4] Consequently, counsel's observations and contentions about the statute's constitutionality are considered as marginal to these administrative proceedings before us. It is assumed counsel is preserving such arguments for whatever court action may be contemplated. Without more, we will proceed to a discussion of the charges.

3. The Deportation Charges

A. The Warrant Charge

The warrant of arrest, dated April 12, 1930, was issued on the basis of the alien's sworn statement of March 6, 1930 that he was then a member of the Communist Party of the U.S.A. It charges him as deportable as a present member or affiliate of a prescribed organization, under the Act of 1918 as amended by the Act of June 5, 1920. The 1940 amendment thereto did not alter such ground of deportability, as shown before. Present membership etc. continued to be a basis for deportation. This warrant of arrest was served upon the alien in 1946 and he was accorded a hearing subsequently to show cause why he should not be deported on such charge i.e. as a present member or affiliate of a prescribed organization. There is no argument as to the sufficiency of such warrant of arrest.

At the hearing, the respondent testified that his association with the Communist Party of the U.S.A. ended about October 1939 because non-citizens of the United States were dropped by such Party (p. 39). He unequivocally admitted membership in the Communist Party of the U.S.A. from 1925 to October 1939, and that during such period at least, the Communist Party of the U.S.A. was a Section of the Communist International, with which it was affiliated. There was no substantial evidence adduced during the hearings to indicate an association relationship (as member or affiliate) with the Communist Party of the U.S.A. or the Communist International, *on or after* the

4. "It is thoroughly establishe dthat Congress has power to order the deportation of aliens whose presence in the country it deems hurtful". (*Bugajewitz v. Adams, supra*, J. Holmes). Likewise as to Congress' plenary power as to the exclusion or expulsion of aliens (*Ng Fung Ho v. White, supra*, J. Brandeis; *Volpe* v. *Smith*, 289 U. S. 422).

warrant of arrest was served on May 2, 1946. The respondent denied he was a present member or affiliate of either the Communist Party of the U.S.A. or the Communist International. There was no substantial evidence that his relationship to these organizations extended beyond the period claimed (1925-1939).

As to the *present* associational relationship with other organizations heretofore designated, which the respondent disclosed, the record shows that no attempt was made in these proceedings to develop whether such organizations were of a prescribed nature warranting deportation under the warrant charge.

Present membership in or affiliation with a prescribed organization was not established in these proceedings. Accordingly, the Presiding Inspector properly concluded that the warrant charge was not sustained by the evidence of record.

B. The Lodged Charges

Pursuant to 8 CFR 150.6(1), three charges were lodged at the original hearing on October 15, 1946, and two more at the reopened hearing on February 18, 1948. These five charges were laid under the 1940 amendment of the Act of October 16, 1918 and refer to a period in the past, sometime during the respondent's acknowledged association with the Communist Party of the U.S.A. and the Communist International from 1925 to October 1939. These charges will be set forth, followed by brief comment as to whether they overlap.

(1) Found to have been after entry a member of the following class set forth in Section 1 of said Act: An alien who believes in, advises, advocates, or teaches the overthrow by force or violence of the Government of the United States.

(2) Found to have been after entry a member of the following class set forth in Section 1 of said Act: An alien who is a member of an organization, association, society or group that believes in, advises, advocates, teaches the overthrow by force or violence of the Government of the United States.

(3) Found to have been after entry a member of the following class set forth in Section 1 of said Act:

An alien who is affiliated with an organization, association, society or group that believes in, advises, advocates, or teaches the overthrow by force or violence of the Government of the United States.

(4) Found to have been after entry, a member of the following class set forth in Section 1 of said Act: An alien who is a member of and affiliated with an organization, association, society, and group that advises, advocates, and teaches the overthrow by force and violence of the Government of the United States.

(5) Found to have been, after entry, a member of the following class set forth in Section 1 of said Act: An alien who is a member of and affiliated with an organization, association, society, and group, that writes, circulates, distributes, prints, publishes, and displays, and causes to be written, circulated, distributed, printed, published, and displayed, and that has in its possession for the purpose of circulation, distribution, publication, issue, and display, written and printed matter advising, advocating, and teaching the overthrow by force and violence of the Government of the United States.

Of the above lodged charges, No. 3 refers to "affiliation" and is directed at the alien's relationship to the Communist International. No. 2 refers to "membership" and is directed at the alien's relationship to the Communist Party of the U.S.A. No. 4 refers to both "membership" and "affiliation" and aims to more fully cover the alien's relationship to the Communist Party of the U.S.A. to the extent No. 4 embraces the "membership" already charged by No. 2, there is an overlap. Such partial overlap in these charges does not preclude conclusions of law supporting both of them.

It is clear the alien was fully apprised of the charges lodged against him and that he was accorded ample opportunity to be heard thereon. We may proceed now to examine the issues presented by the lodged charges.

4. The Issues Raised

The alien admitted unequivocally that he was a member of the Communist Party of the U.S.A. from 1925 to Octo-

ber 1939, and that at least during such period, the Communist Party of the U.S.A. was affiliated with the Communist International, as a Section thereof. The issues presented are whether, during such period (1) these organizations advocated the overthrow of the Government of the United States by force or violence, (2) and the Communist Party of the U.S.A. distributed literature which advocated the same.

The alien testified he subscribed to the principles of the Communist Party of the U.S.A. while a member (p. 26), but denied that he ever believed in or advocated the overthrow of the Government of the United States by force or violence. The final issue is whether this alien, during such period, believed in or advocated the overthrow of the Government of the United States by force or violence.

5. The Evidence

A. In General

The evidence in this case consists of testimony and exhibits. A list of exhibits is attached hereto as "Appendix A" and is incorporated and made part hereof by reference. On this list is shown the pages in the hearing where each exhibit was identified, introduced, or authenticated. For the respondent, the following exhibits were introduced; 14, 17A, 17B, and 33 through 44 inclusive. Government exhibits included 1 through 13, 15, 16, 18 through 32, and 45 through 48.

The respondent testified on his own behalf (pp. 1-114, 599-604), and testimony was received from the witness he presented, one William Schneiderman (pp. 277-599). Testimony was taken from two witnesses presented by the Government, one George Hewitt (pp. 126-254), and the other Robert Pitcoff (pp. 254-274).

Faint contention was raised during the hearing as to the "official" character of certain government exhibits. In oral argument on October 19, 1948, such contention was negatived by counsel. It was then stated that the respondent did not disapprove the documentary exhibits; rather that he "adopted" them as his own. In any case, such protestation was sufficiently contervailed by the testimony of Government witness Hewitt.[5] Further discussion as to

5. Pages 145, 149, 161, 165, 170, 173, and 178 refers to Exhibits 5A, 11, 24-28, and 30.

the reliability and probative value of the documents relied upon by the government is deemed unnecessary.

It is well settled that documents, books, and other papers of an organization, and/or oral testimony of evidential value are sufficient to properly form the basis of a finding that the organization advocates the overthrow of the Government of the United States by force or violence.[6]

The associational ties specified in the last four lodged charges call for but little comment. That the relationship as *member* of the Communist Party of the United States of America, included "affiliation" with the same organization during such membership, is not disputed. This conclusion is supported by a similar holding of the court in *Kjar* v. *Doak* (61 F. (2d) 566). As to *affiliation* with the Communist International, the respondent concedes, (1) that the Communist Party of the U. S. A., at least while he was a member affiliate thereof, was the Section of the Communist International here, (2) that he was an active member of this Communist International *affiliate*, and (3) throughout the course of such membership he *actively* participated in furthering their program. Further, members of the Communist Party of the U. S. A. were required to accept the program and statutes of the Communist International and the Communist Party of the U. S. A. (See Ex. 18, Sec. 3, 1930.) "Affiliation" with the Communist International from 1925 to October 1939 (within the interpretation of that term by the Court in *Bridges* v. *Wixon* (65 S. Ct., 1443) and within its *statutory* definition (8 U. S. C. 137 (f)), is deemed established and will be considered as datum hereinafter.

B. Documentary Evidence—Method, Theory and Practice, Program, Strategy and Tactics of the Communist International and Communist Party of the U. S. A.—In General.

For clearer presentation of our analysis of relevant matter in the documentary evidence as to the advocacy of force

6. *Ex parte Vilarino*, 47 F. (2d) 912 (D. C. Cal. 1930, aff'd 50 F. (2d) 582 (C. C. A. 9, 1931)); *Fierstein* v. *Conaty*, 41 F. (2d) 53 (C. C. A. 9, 1930); U. S. ex rel. *Vaitauer* v. *Commissioner of Immigration*, 273 U. S. 103 (1927); *Murdoch* v. *Clark*, 53 F. (2d) 156 (C. C. A. 1, 1931); *Kjar* v. *Doak*, 61 F. (2d) 566, (C. C. A. 7, 1932); *Skeffington* v. *Katzeff*, 277 F. 129 (C. C. A. 1, 1922).

and violence, relied upon by the government, we will sketch in prelude its chronology and continuity. This will trace a path across the voluminous matter therein and bring us to a point where we may focus on the method, theory and practice, objectives, strategy and tactics of Marxism-Leninism, to which both the Communist International and its affiliate, the Communist Party of the U. S. A. admittedly subscribed throughout the period with which we are concerned here, i.e. from 1925 to October, 1939 (see Ex. 5, pp. 9-10, and Ex. 4, pp. 5-6). The necessity for a close examination of certain aspects of Marxism-Leninism arises from the contention made as to advocacy of force and violence, which is the core of the issue here.

Several major divisions of the documentary evidence covering different periods of time will be noted hereinafter. First, there is the period of Marx and Engels, which includes the "First" International movement and extends to the last decade of the nineteenth century. Next, there is the period of the Second International (1899-1914, 1918). The period next treated spans from at least 1919, when the Third International was launched and the American Communist Party was formed, up to at least October, 1939. In this last period mentioned, Lenin and Stalin crystallized and brought into clear relief what Marxism-Leninism "stood for". The government finds no change in the official "stand" thus taken, at least during 1925 to October, 1939. In counsel's brief, it is stated that no evidence presented by the respondent was offered in "opposition" to the "classics" of Marxism-Leninism now in evidence, and it added that the principles of Marxism-Leninism were endorsed by these organizations at least from 1925 to October, 1939. Aside from these concessions, we have evidence of the embodiment, as well as official endorsement, of Marxism-Leninism by these organizations, which will be discussed in detail later (Ex. 5, pp. 9-10 and Ex. 4, pp. 5-6). At this point, we will present our grouping of the documentary evidence selected to indicate its chronology and continuity.

The Manifesto, which was prepared by Marx and Engels in November 1847 in connection with the First Communist International, on the eve of the German revolution of 1848, appears in evidence as Exhibit 19 (The Communist Manifesto, 1848—see Ex. 20, p. 21). The experiences of 1848-1851 (French revolution of 1848) from the Marxian

viewpoint (Ex. 20, Chap. II); the letter by Marx to Wedemeyer dated March 5, 1852 dealing with what Marx felt he had contributed to the movement (Ex. 20, p. 29); the experience of the Paris Commune of 1871 (French revolution 1870) as analyzed by Marx (Ex. 20, Chap. III); Marxist's 1871 letter to Kugelmann (Ex. 20, p. 33); supplementary explanations by Engels including an 1873 polemic against the anarchists and an 1875 letter to Bebel (Ex. 20, Chap. IV); Marx's 1875 letter to Brache and other references to Marx's Critique of the Gotha Programme (Ex. 20, pp. 69, 87, 55); all of the foregoing are found covered in *State and Revolution* by Lenin (Ex. 20). The references to the French Revolution of 1848 and the French Revolution of 1870 is found in Ex. 21, p. 44. The 1888 introduction by Engels to *The Communist Manifesto*, which contains Engels remarks summing up the lesson derived from the Paris Commune experiences of 1871, appears in Exhibit 19, mentioned above. Reference to Engels' 1891 preface to Marx's *Civil War in France* appears in Ex. 20, p. 62. A reference to Engel's works *The Origin of the Family, Private Property, and the State* (Sixth Edition of 1894) appears in Exhibit 20, page 8. Comments on the polemics of Plekhanov against the anarchists (published as a pamphlet in 1894) and of Kautsky against the opportunists, "two of the best known theoreticians of the 'Marxism' of the Second International" (1899-1914. 1918) appear in Exhibit 20 in Chap. VI. Kautsky's 1902 view on the flaring Russian revolutionary movement appears in Exhibit 21, p. 9. The principal stages in the history of Bolshevism from 1903 to October 1917 are sketched in Exhibit 21 from page 12 on. (First Bourgeois Revolution in Russia in 1905, the Second Bourgeois Revolution in February 1917, and the Socialist Revolution of October 1917 are also mentioned in Exhibit 21, pp. 44 and 71.)

The period now considered and the documentary evidence thereon refer to the Leninist development of Marxism, "for the epoch of imperialism". In order of time, we have Lenin's letter to American workers dated August 20, 1918 which appears in Exhibit 48. In August-September 1917, the material found in *State and Revolution* was written by Lenin and in 1918 he added paragraph 3 to Chap. II thereof (Ex. 20). Much of the material appearing in *State and Revolution* finds repetition and is frequently referred to, in subsequent writings by exponents

of this movement especially in regard to the "critical and revolutionary" content of Marxism-Leninism, including the thesis as to the necessity for the overthrow of the bourgeois state. It is a landmark in the Communist movement (wherein a split had been experienced in 1914) and represents the reasons for the earlier attempts to establish a new *revolutionary* international (World War I, 1914-1918). This is noted in Ex. 5, p. 8.

In 1919, the *"new"* Communist International was launched (Ex. 5, p. 8). The proletariat revolution in Russia had given an impetus to the formation of Communist Parties in the centers of capitalism and in the colonies. As noted, it appears that a Communist Party was formed in the United States in 1919, too. It was an affiliate of the *"new"* revolutionary international movement, which was to act as a "counterpoise to the Second, social-chauvinist International" and as a "weapon of resistance to bellicose imperialism" (Ex. 5, p. 8). In connection with this *"new"* international movement, Lenin wrote his *"Left Wing" Communism, An Infantile Disorder* (Ex. 21, 1920). For further clarification of the Leninist accent or orientation on Marxism, we have Stalin's series of lectures of April 1924, which were delivered shortly after the death of Lenin (Ex. 22). Exhibit 22, entitled *Foundations of Leninism,* represents much research in and reference to works of Lenin other than those which appear in evidence. This was followed by Stalin's work of January 25, 1946 which appears under the title of *Problems of Leninism* (Ex. 23). These works of Stalin and Lenin are considered basic in so far as what *Marxism-Leninism* "stands for". The militant emphasis by Lenin on the "critical and revolutionary" content of Marxism, in the epoch of imperialism and the international character of Leninism is noted by Stalin (Ex. 23, p. 7; Ex. 22, p. 11). The turning away from the opportunism of the Second International is critical for the *"new"* international after Leninist analysis by the *dialectical-materialism* method. This brings us to the period of the preparation for party solidification throughout the world and for the establishment of a *uniform world* program.

Resolution of the Sixth World Congress of the Communist International, of July 8, 1928, appears in Exhibit 27 and contains a summation of the tasks confronting the

world Communist movement with particular emphasis on the growing Fascist menace, as well as the need to protect the U.S.S.R. *The Program of the Communist International,* together with its Constitution, was adopted on September 1, 1928 (Ex. 5 and also 5A). Here we find its avowed precursors, its credo, and orientation. It is explicit as to its stand, its program, its method, its sources as to theory and practice and its objectives. It prescribes the world organizational structure of the world Communist movement of which it is the organizer and leader. It notes the U.S.S.R. as the only "fatherland" of the world proletariat which the world proletariat must defend. It binds all of its affiliates by its central decision.

On the American scene we are told that there was some factionalism, particularly on so-called "exceptionalism", which considered the American capitalist situation different from that of the rest of the imperialistic countries. In this connection we have Stalin's 1929 *Speeches on the American Communist Party* (Ex. 46) which reflect the condition of the Communist Party of the U.S.A. We are told that the "draft" condition of the Communist Party of the U.S.A. in 1929 failed of adoption (Ex. 39, p. 79) and that the "exceptionalists" like Lovestone and Gitlow were rejected. Exhibit 18 is a copy of a membership book of the Communist Party of the U.S.A. (Section of the Communist International (containing certain statutes which indicate that members were bound by the decisions of the Communist International as well as the Communist Party of the U.S.A. While the record doesn't show the actual adoption of "Thesis and Resolutions" for the Seventh National Convention of the Communist Party of the U.S.A. (1930), it does show that it was prepared by its Central Committee Plenum in 1930, and that it "represents the unanimous proposals of the leaders of our Party to the Seventh Convention" and that "These proposals are in complete harmony with the line of our World Party—the Communist International" (Ex. 29, p. 2). This 1930 "declaration of harmony" between the Communist International and the Communist Party of the U.S.A., on what the international movement embodied, is followed by the 1933 "Thesis of the Thirteenth Plenum of the Executive Committee of the Communist International" (Ex. 11). It bears the title of "Fascism, The Danger of War and Tasks of the Communist Party". In Exhibit 12 we have a manifesto and three reso-

lutions of the Eighth Convention of the Communist Party of the U.S.A. of 1934 "Resolutions, Seventh Congress of the Communist International with Speech of Georgi Dimitroff delivered at the close of such Congress on August 20, 1935" is contained in Exhibit 47. "Resolutions of the Ninth Convention of the Communist Party of the U.S.A." of June 1936 appears in Exhibit 41. This brings us to the "Resolutions of the Tenth Convention of the Communist Party of the U.S.A." of May 1938 (Ex. 42) and to the "Constitution and By-Laws of the Communist Party of the U.S.A." adopted May 1938 (Ex. 4). These reflect the *united "democratic" front* expression of the Communist movement in the United States.

The foregoing represent the "official" documentary sources upon which the government primarily relies for its findings as to what the Communist International and its affiliate, the Communist Party of the U. S. A. "stood for" with respect to the issue, i.e. their advocacy of force and violence, from at least 1925 to October 1939.

In reaching such findings, it was not deemed necessary to have recourse to certain writings of individual Party members or to certain editorials appearing in the Party's official publication "The Communist". They bear out our findings based on the previously detailed "official" Party declarations (Ex. 28, *1929;* Exs. 10, 15, 45, *1934,* Exs. 26, 30, *1935*). Respondent's exhibits, covering Earl Browder *reports* to various bodies of the Communist Party of the U. S. A. (Exs. 35, *1936;* 37, *1937;* 39, *1938*) and his telegram of March 15, 1938 to New York State Senate Judiciary Committee (Ex. 44), offer illuminating "sidelights" on the united—"democratic"—front—tactic; as to which the government finds the "official" view of the Communist Party of the U. S. A. in respondent's Exhibit 42 (1938) and in Exhibit 4, the 1938 Constitution of the Communist Party of the U. S. A. The Constitutions of the Communist Party of the U. S. A. relating to a period after October 1939 (respondent's Exs. 14, *1945;* 34, *1947*) are not considered because they postdate the period involved. The election platforms of the Communist Party of the U. S. A. do not express matter relating to our issue, except that the 1932 election platform speaks of the revolutionary Marxian "way out". (Exs. 38, *1932;* 36, *1936;* 40, *1938;* 43, *1940*). None of these "auxiliary" exhibits indicates a change from,—let alone a repudiation of,—the *Marxism-Leninism* embodied

in the Third International, recapitulated and summed up in the Communist International Program of 1928, and followed at least through 1935 to October 1939, by the Communist International and its affiliate, the Communist Party of the U.S.A.

C. *Documentary Evidence Relating to Advocacy of Force and Violence*

Marx disclaimed discovery of classes or class struggles in society. Lenin repeated that the theory of class struggle was created by bourgeois economists and historians before Marx (Ex. 20, p. 29).

As early as 1852, Marx claimed that what was *new* on his part was to *prove* the following: (1) that the existence of classes is connected *only* with certain historical struggles which arise out of the development of production; (2) that class struggle *necessarily* leads to the dictatorship of the proletariat; (3) that this dictatorship is itself only a transition to the abolition of all classes and to a classless society (Ex. 20, p. 29).

Lenin declares the above expression of Marx furnishes with "striking clearness", (1) the chief and concrete differences between Marx's teachings and that of the bourgeoisie, and (2) the essence of Marx's teachings concerning the state (Ex. 20, p. 30).

According to Lenin, a Marxist is one who *extends* the acceptance of class struggle to the acceptance of the *dictatorship of the proletariat* (Ex. 20, p. 30). On this touchstone it is necessary to test a *real* understanding and acceptance of Marxism (Ex. 20, p. 30).

Marx stated (1875) that between Capitalist and Communist society lies a period of the revolutionary transformation of the former into the latter. To this also corresponds a political transition period, in which the state can be no other than the revolutionary dictatorship of the proletariat (Ex. 20, p. 71). Lenin comments that: This conclusion Marx bases on an analysis of the role played by the proletariat in modern capitalist society, on the data concerning the evolution of this society, and on the *irreconcilability* of the opposing interests of the proletariat and the bourgeoisie (Ex. 20, p. 71).

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Lenin concludes that the transition from capitalist society towards Communist society is *impossible* without a "Political transition period", and the state in this period can *only* be the revolutionary dictatorship of the proletariat (Ex. 20, p. 71).

The principal lesson of Marxism on the tasks of the proletariat in relation to the bourgeois state during a revolution is to break up and shatter its bureaucratic and military machinery (Ex. 20, p. 33),

This is the *precondition* of any real people's revolution; in America, too (Ex. 20, p. 34, see Ex. 22, p. 55).

"We shall fight for complete destruction of the old state machinery, in such a way that the armed proletariat itself *is the government*", said Lenin (Ex. 20, p. 99). The proletariat needs "state" power, the centralized organization of force, the organization of violence (1) to crush resistance of the exploiters and (2) to guide in the work of organizing toward the desired economy. This "State" is the proletariat organized as the ruling class (exclusively). The proletarian dictatorship, the *exclusive* political rule of the proletariat is the culmination of the revolutionary role of the proletariat in history (Ex. 20, p. 24).

Such an organization is unthinkable without a preliminary break up and destruction of the state machinery created for *its own use* by the bourgeoisie (Ex. 20, p. 24, et seq. & pp. 89, 99). On this focal point there was a parting of the ways between the Third International and the Second International, the latter having shown unwillingness *in practice* to do more than work within the framework of bourgeois society, and instead of working for the destruction of their bourgeois state when the 1914-1918— "imperialistic" war raged, chose "social-chauvinism", that is, the defense of their bourgeois state. This Second International *denial* of the need to destroy the bourgeois state and to establish the dictatorship of the proletariat, constituted a betrayal of and renegacy from "uncorrupted" Marxism. The Marxism-Leninism of the period of the Third International had the tenet of establishing world proletarian dictatorship, a necessary condition precedent to which was the overthrow of the bourgeois state. This was considered (1) axiomatic and fundamental (Ex. 20, p. 25) in *revolutionary* Marxism, as further developed by

Leninism, (2) innate in the dialectical materialism[7] of Marx and Engels, and (3) the hallmark of what the Third International embodied (Ex. 5, p. 10; Ex. 20, p. 65). It was to this "uncorrupted" Marxism which Leninism had excavated and resurrected that the Third International dedicated itself (Ex. 5, Chap. IV; pp. 7-10).

For Lenin asserted that Marx and Engels had taught for 40 years (1852 to 1891) that the proletariat must break up and destroy the bourgeois state machinery (Ex. 20, p. 89) and that this is the principal lesson of Marxism on the tasks of the proletariat, as stated before (Ex. 20, p. 33). Further, the establishment of the proletarian dictatorship, with its new "state" power is deemed the *sine qua non* of Marxism-Leninism, i.e. without which there could be no successful transition from capitalist to Communist society, (with the eventual dwindling or withering away of the *new* "state", of the dictatorship of the proletariat). (See Ex. 5, Chap. IV, Ex. 20, Chap. VI, and Ex. 22, p. 10).

The *emphasis* upon these *necessary* preconditions to a successful realization of the ultimate aim of Marxism-Leninism and the Third International is the index of the entire *orientation* of the Third International movement. Here is the critical point of cleavage from the Second International, with its "corrupted" or "distorted" Marxism, its "opportunism", its working *within* the framework of the bourgeois state by revisionism or reformism, its schism between theory and *practice*, its renegacy, its social-chauvinism, and its *social-pacifism*, which the Third International *repudiated* (Ex. 20, Ex. 22, pp. 20, 88, Ex. 5).

Not the mere overthrow and abolition of the state *qua* state as in anarchism; but the necessity for the overthrow of the bourgeois state *and* the establishment of the proletarian dictatorship with its transition-interim "state" or "organization" is posited by Marxism-Leninism (Ex. 5, p. 74, Ex. 20, Chap. IV, and p. 53).[8]

Throughout the period we consider (1925 to October 1939), what remained and persisted as the core of *revolutionary* Marxism-Leninism, embodied in the Third International movement was (1) that the bourgeois state *must*

7. The Second International had gone astray, employing *eclecticism* (Ex. 20, p. 19).

8. As to various other ideologies among the working class inimical to Communism, see Exhibit 5, pp. 68-76.

be *abolished*, and (2) the dictatorship of the proletariat with its "state" *must* be established, if the ultimate fixed aim was to be realized (Ex. 5, pp. 7-10 and Ex. 4). Without these *preconditions* being fulfilled, its "historic mission" could not be accomplished. The *revolutionary* phase of the evolution of society, could not be successfully realized, unless these preconditions were met.

This was the way society in the world would be *changed*. "Explaining" the world wasn't enough, said Marx. It had to be changed (Ex. 22, p. 21). The change could not be effected without violence, for it was a revolutionary change from capitalist to Communist society which was involved, and the bourgeois state had to be shattered in the process.

Lenin undertakes to show that the teaching of Marx and Engels, regarding the *inevitability* of a violent *revolution* refers to the bourgeois state. Lenin concludes that the replacement of the bourgeois state by the proletarian "state" is *impossible* without a violent revolution (Ex. 20). Lenin asserts that the necessity of *systematically* fostering among the masses *just this* point of view about *violent revolution* lies at the *root of the whole* of Marx's and Engles' teaching (Ex. 20, pp. 19-20).

Stalin affirms the foregoing and says that *the law* of violent proletarian revolution, *the law* of the smashing of the bourgeois state machine as a preliminary condition for such a revolution, is an *inevitable law* of the revolutionary movement in the imperialist countries of the world[9] (Ex. 22, p. 56).

Neglect to "foster" among the masses *just* this point of view is a betrayal of Marx's and Engels' teaching. This *neglect* to so propagandize and agitate is what brought into prominent relief the betrayal by the Second International of the teaching of Marx and Engles (Ex. 20, p. 20; Ex. 22, p. 89).

Stalin states that actually the main work of the Second International followed the line of "opportunism" with emphasis on *legal* forms of struggle, and *without* serious consideration about *revolution, the dictatorship of the proletariat*, or the *revolutionary education of the masses*. It

9. Stalin repeats what Lenin said about America being included since World War I period. He speaks of the use of Marx's qualifying phrase about the continent as a *pretext* for proclaiming that Marx had thus conceded the *possibility* of peaceful revolution etc. (Ex. 22, p. 55).

had no *integral revolutionary* theory or policy (Ex. 22, p. 20).

Speaking of the *fundamental law of revolution,* Lenin states that it is not enough for *revolution* that the exploited and oppressed masses should understand the *impossibility* of living in the old way and demand changes; rather what is *required* for *revolution* is that the exploiters should *not be able* to live and rule in the *old way.* There has to be a crisis. It must be understood that *revolution is necessary.* The revolutionaries, etc. must be ready to sacrifice their lives for it (Ex. 21, p. 66; Ex. 22, p. 45).

The revolutionary role of the proletariat in history is thus emphasized. Merely making demands acceptable to capitalism is not the way the revolutionary movement proceeds. The theory of "spontaneity" is denounced as a theory of opportunity *and* as a theory which repudiates the leading role of the vanguard of the working class, the Communist Party. The "spontaneous" workingman's movement must be lent consciousness and system and must be given leadership by the Party (Ex. 22, p. 30). Parliamentary struggle is *only* a school for and *aid* in organizing the extra-parliamentary struggle of the proletariat. Under capitalism the fundamental problems of the working class movement are solved by *force,* by the direct struggle of the proletarian masses, their political general strike, their insurrection (Ex. 22, p. 24). The *revolutionary* content of Marxism restored by Leninism (Ex. 22, p. 10) is thus pointedly illustrated, for the proletariat must first of all overthrow and break up the bourgeois state power (Ex. 23, p. 20).

Force in a revolutionary role is the instrument with whose aid social movement forces its way through and shatters the dead, fossilised political forms; force is the midwife of every old society which is pregnant with the new (Thus Engles and Marx; see Ex. 20, p. 20). In the development of the proletariat, the more or less veiled "civil" war raging within existing society continues to the point where it breaks out into *open revolution,* where the *violent* overthrow of the bourgeoisie lays the foundation for the sway of the proletariat (Ex. 19, pp. 20-21; Ex. 20, p. 21) Engles defines *revolution* as an *act* in which one section of the population imposes its will on the other by means of rifles, bayonets, cannon, *i. e.,* by highly authoritative means (Ex. 20, p. 53).

In the period prior to *open* revolution there is much work and preparation for the Party. Open revolution must not be begun until conditions are propitious and ripe. The will to revolt must attend upon factors favoring its success. The success of the revolt will be the more inevitable as conditions favor. The first aim is to overthrow the bourgeois state power utilizing any and all allies, any and all methods (Ex. 21, pp. 22, 52, 53). The next step is seizure of power which may follow more readily upon the first step to the extent it has the mass of the proletariat "behind" it. However, the seizure of power by the proletariat does not wait upon a "majority" necessarily. Whenever possible it may hasten the general issue and take advantage of any favorable situation which would permit it to seize power immediately (Ex. 22, p. 23). The whole point, whether before or after seizure of power (Ex. 21, p. 53), lies in *knowing how* to apply these tactics in such a way as to *raise*, and not lower, the *general* level of proletarian class consciousness, *revolutionary spirit, and ability to fight and conquer* (Ex. 21, p. 56). The class struggle persists even after the capture of political power. There remain tasks for the proletariat to accomplish including the completion of what it did not complete before the capture of political power (Ex. 21, p. 76). To fulfill its task throughout, the *revolutionary* class must, (1) be able to master *all* forms or sides of social activity without exception, and (2) be ready to pass from one form to another in the quickest and most unexpected manner (Ex. 21, p. 76). Neither legal methods applied as stated above, nor illegal methods useful for the ultimate aim are to be eschewed.[10]

But, for all these preparatory and follow-through tactics, or forms of struggle, and no matter what strategic reserves and allies are rallied, there remains the *open-revolution-phase* wherein the bourgeois state is to be overturned as the first step. Favorable auspices for such revolt or rebellion or insurrection might be enumerated on the basis of previous experience and foresight; criteria for recognizing the revolutionary upsurge or the critical condition of the regime it is to overturn may be enunciated. What remains fixed is that a violent revolution *must* ensue to overthrow

10. "Leftists" (the Inflexibles as to illegal methods) and "Rightists" (exclusively partial to legal or peaceful methods) are thus corrected (Ex. 21, p. 77).

the bourgeois state, then to seize power, then to conquer power, etc. Strategy might change as different phases of *the revolution* required; or strategy might remain unchanged while the line of combat and forms of struggle might tactically vary during the ebb and flow of the movement; but the necessity to use force and violence to overthrow the bourgeois state and its apparatus and to establish the dictatorship of the proletariat, remains fixed as law. It is only this side of Bolshevism, insurrection, violence and terror, that the bourgeoisie practically see (Ex. 21, p. 81).

The armed conflict, the battle, the violent revolution is the only way that the revolutionary proletariat will fulfill his role in the revolution. That is what revolution is; *i. e.* The act in which one section of the population imposes its will on the other by highly authoritative means like rifles, bayonets, cannon. Engels adds that the victorious party is inevitably forced to maintain its supremacy by means of that fear which its *arms* inspire in the reactionaries (Ex. 20, p. 53). Stalin enumerates five basic differences between the proletarian revolution and the bourgeois revolution (Ex. 23, pp. 16, 17).

The first has to go on after it has completed its *tasks* of *destruction* (Ex. 23, p. 17). The radical transformation sought cannot be achieved without a violent revolution, without the dictatorship of the proletariat (Ex. 23, pp. 19, 20). The apparatus of the bourgeois state *has to be* destroyed first (Ex. 23, p. 20). "To think that such a revolution can be carried out peacefully within the framework of bourgeois democracy, which is adapted to the domination of the bourgeoisie, means one of two things. It means either madness, and the loss of normal human understanding, or else an open and gross repudiation of the proletarian revolution" (Ex. 23, p. 20).

It is apparent that Marxism-Leninism is instinct with force and violence. It openly declares that its aims can be obtained *only* by the *forceful* overthrow of all the existing bourgeois social conditions (Ex. 19, p. 44; Ex. 20, p. 20, Ex. 5, p. 85).

This *law* of violent revolution is a precipitate of its dialectical-materialistic approach. It could not be stated more plainly and simply. The proletarian *revolutionary* role is to make it impossible for the exploiters to be able

to live and rule in the *old way*, and the *only* way that is to be done is *necessarily* by force and violence. It is clearly established beyond question from the documentary evidence adduced that Marxism-Leninism advocates, advises, and teaches the necessity for and the inevitable use of force and violence to overthrow the bourgeois imperialistic governments, of which the United States is one.[11]

Not only is the emphasis entirely on *vi et armis* as *the* method to crown the *revolutionary* upsurge with success, i.e., the overthrow of bourgeois governments and the establishment of the dictatorship of the proletariat; any other method is considered unthinkable and nowhere is a *peaceful* method urged as an alternative. Of course this is not to say that in theory the peaceful way is ruled out as a "possibility" or as something "conceivable"; that this is a mere supposition as to which there *might* be some ground in the remote future is revealed by Stalin.

> "Of course, in the remote future, if the proletariat is victorious in the most important capitalist countries, and if the present capitalist encirclement is replaced by a socialist encirclement, a "peaceful" path of development is quite possible for certain capitalist countries, whose capitalists, in view of the "unfavourable" international situation, will consider it expedient "voluntarily" to make substantial concessions to the proletariat. But this supposition applies only to a remote and possible future. With regard to the immediate future, there is no ground whatsoever for this supposition."

Stalin asserts that Lenin was right in saying that the proletariat revolution was impossible without the forcible destruction of the bourgeois state machine and the substitu-

11. If there was any doubt as to where Marxism stood in 1871 as to the use of force and violence to overthrow the government of the United States, all doubt was dissipated and removed as of 1917 and thereafter. There is ample documentary evidence in support of this point (Ex. 20, p. 34; Ex. 21, p. 79; Ex. 48; Ex. 22, pp. 55-56; Ex. 23, p. 12; Ex. 46, Ex. 27, Ex. 5, Ex. 12, Ex. 47, Ex. 42, Ex. 4, Ex. 18). The rejection of American "exceptionalists" in 1929 and Stalin's letters to the American Communist Party speak for themselves (Ex. 46). This point need not be further labored here since the documentary evidence is ample and since it is conceded that Marxism-Leninism was endorsed and subscribed to by the Communist International and the Communist Party of the United States of America.

tion for it of a *new one*, etc. (Ex. 22, p. 56). That the violent or cataclysmic method was the method advocated, advised, and taught by the Third Communist International movement throughout the period we consider (1925 to October, 1939), will be shown hereinafter.

In the imperialist epoch (which covers 1925 to October, 1939), with state-monopoly-finance capital ubiquitous and all powerful, and with Fascism a growing menace, the integral *revolutionary* theory or policy of the Third International needed restatement so that a more uniform, unremitting, and concerted fight could be waged throughout the world against the "world" enemy. More adequate methods of fighting were required. It became necessary to overhaul the entire activity, the method of work, and arsenal of the Second International and to forge new weapons; otherwise the proletariat ran the risk of finding itself inadequately armed or even completely unarmed, in the future. This Leninism did (Ex. 22, pp. 21, 22). What was contained in Lenin's method is not only a restoration of Marx's method, "but also the concretization and further development of the critical and revolutionary method of Marx, of his materialist dialectics" (Ex. 22, pp. 27, 88, 89. See Appendix B). This method and integral *revolutionary* theory or policy of Marxism-Leninism constitute the "science of leadership of the revolutionary struggle of the proletariat" (Ex. 22, p. 89; see Ex. 5, pp. 10, 81, and Ex. 4, pp. 5-6).

In view of the imperialist war believed imminent and the growing menace of Fascism much of the foregoing was reiterated in 1928 and specific tasks were designated (Ex. 27, Ex. 5). The *orientation* of the Third International was restated with precision in its Program of 1928 (Ex. 5). It delineated its line of succession from the "founders" and recited its honor roll of *revolutionary* heroes in whose tradition it would follow. It drew the line of demarcation to distinguish its "Leftists" and "Rightists". It took its stand on *revolutionary* Marxism not evolutionary or peaceful "Marxism") *as further developed by Leninism*. There was no room for *eclecticism*, reformism, revisionism, class-peace, or working within the framework of bourgeois society. It advocated and propagated the "dialectical materialism" of Marx and Engels not of Bernstein or Kaut-

sky, etc.). It would employ "dialectical materialism"[12] as the *revolutionary method* of the cognition of *reality*, WITH the view to the *revolutionary transformation* of this reality. Lest there be any mistake about its following Marxism-Leninism, it added that it waged an active struggle against *all* forms of bourgeois philosophy and against *all* forms of theoretical and practical *opportunism*. It continued to seek to establish world proletariat dictatorship and world Communism and was the organizer of the world proletarian *revolution* (Ex. 5, pp. 7-10). It specifies proletarian civil wars against the bourgeoisie (Ex. 5, p. 34). The conquest of power by the proletariat includes the violent overthrow of bourgeois power, the destruction of the capitalist state apparatus (bourgeois armies, police, bureaucratic hierarchy, the judiciary, parliaments, etc.), substituting in its place *new* organs of proletarian power, to serve primarily as instruments for suppression of the exploiters.[13] The conquest of power by the proletariat does not mean *peacefully* "capturing" the ready-made bourgeois state machinery by means of a parliamentary majority (Ex. 5, p. 36). The doctrines of Marxism-Leninism as to force and violence in achieving its revolutionary aims are not merely recapitulated and summed up in Exhibit 5 (Ex. 20, pp. 19-20, 25, 27, 33; Ex. 22, pp. 52, 94, 95, 103, 107-109; Ex. 5, pp. 78-79, 82-86, 96; see also Ex. 45, pp. 22, 27-28). The *philosophic key* to such an approach is succinctly stated (Ex. 5, p. 10).

The complete divorce from the "peaceful" methods of the Second International is forcefully restated (Ex. 5, p. 80). Parliamentary control was merely an index of the maturity of the proletariat.

What to do in a revolutionary upsurge in organizing mass action is particularized. Mass action included *armed* insurrection against the state power of the bourgeoisie. This is the supreme form of struggle. It had to be conducted according to the rules of military science, etc. It called for the organization of militant units and intensified *revolutionary* work in the bourgeois armed forces (Ex. 5, pp. 80-81). It declares that to fail to start the rebellion at the right time (Ex. 5, p. 80) means to allow the *initiative*

12. See Appendix B.

13. The State or "state" as an organ of oppression. (See Ex. 20, pp. 8-9; 22, 74 and Ex. 22, p. 51.)

to pass to the enemy and to doom the revolution to defeat (Ex. 5, p. 81).

The imperialist war appearing imminent in 1928, the Leninist policy of converting imperialistic war into civil war is repeated (Ex. 27, Ex. 5, p. 84). The defeat of one's "own" imperialist government is advocated. In the event of imperialist war against them, the U. S. S. R. and the colonies should be defended by *every possible means* (Ex. 5, p. 84). The *forcible* overthrow of all existing bourgeois social condition is *the* method announced and advocated. It is not a matter of mere prediction or *acceptance* of the necessity for the use of force and violence to obtain its ends. The Third International *embodies* the force and violence method of Marxism-Leninism, *and no other*, method is espoused or even discussed to achieve the overthrow of the bourgeois governments and the establishment of the dictatorship of the proletariat.

In a *pre*-revolutionary period, the most important and basic tactic of the Communist Parties is that of the united-"workers"-"democratic" *front* (Ex. 5, p. 82). The "uses" of bourgeois democracy and its "extension" in the *development and progress of the Communist* REVOLUTION are brought out by Lenin (Ex. 20, Chap. V, esp., pp. 82-85) and much of this is echoed in the 1938 Constitution of the Communist Party of the United States of America (Ex. 4, p. 5).

But as to the revolutionary period (from its inception on), there is no change shown throughout the Third International movement (Communist International and Communist Party of the United States of America) on its *integral revolutionary theory or policy* (Ex. 46 (1929); Ex. 11, (1933); Ex. 29 (1934); Ex. 47, p. 30 (1935) regarding the use of force and violence. There is much "official" repetition. The Constitution of the Communist Party of the United States of America (1938) carefully cleaves to the method the Communist International Program of 1928 so precisely articulated. It would follow "the scientific principles enunciated by the greatest teachers of mankind, Marx, Engels, Lenin and Stalin", *embodied in the Communist International* (Ex. 4, pp. 5-6). Fundamentally, it provided nothing new as to the *revolutionary* method (see Ex. 39, p. 79). Its affiliation-tie with the Communist International continued through at least October 1939 (see Ex. 5, pp. 10, 84 and constitution therein), and it will be

remembered the affiliates were bound to defend the U. S. S. R. by *every* possible means in the event of imperialist war against it, and to defeat their "own" governments engaged in an imperialist war, and to convert the imperialist war into civil war.

There is not a scintilla of evidence that the Communist Party of the United States of America altered by one iota the integral *revolutionary* policy of the Communist International and Marxism-Leninism. The main blow was aimed at Fascism (strategy) and its united-"democratic"-front (tactic) was aimed against "reactionaries", and *for* self-protection, self-development and self-preservation. But this was a *pre*-revolutionary[14] tactic, an example of the flexible-manoeuver-*tactical* policy advocated by Leninism. It is not even peripheral to the high policy regarding force and violence which obtains in the *revolutionary* period. We have noted before the "uses" to which democracy can be put (Ex. 20, Chap. V), and that the *united front* tactic is useful for the *pre*-revolutionary period (Ex. 5, p. 82). What is held in abeyance is not eliminated thereby (see Ex. 35, p. 11). The integral *revolutionary* policy, etc. persisted.[15] The *enemy* need not be

14. (See Ex. 5, p. 82. For *revolutionary* strategy and tactics, see Ex. 22, p. 90, *et seq.*)

15. Section 5 of the 1938 Constitution of the Communist Party of the United States of America calls for some comment (Ex. 4, p. 20). It says that party *members* found to be ————, advocates of *terrorism and violence* as a method of Party *procedure*, or members whose actions are *detrimental* to the Party and the working class, shall be summarily dismissed etc. This is a matter of Party discipline (Article X, Ex. 4). What it was intended for is told by its exponents in respondent's exhibits (Ex. 35, pp. 11, 42; Ex. 37, pp. 44-50; Ex. 39, pp. 32, 37). It is not directed against Party Congresses and Central Committees or its authoritative bodies. It is for Party *procedure* and not directed to the method of *revolution* or the integral revolutionary policy of Marxism-Leninism which it endorsed. It is against individual members, acting "stupidly" (Ex. 21, p. 59; Ex. 37, p. 49), detrimentally to the Party's then "pose" of cooperation against reactionaries, Fascists, etc. (Ex. 35, p. 11). It is like Marx's rejection of individual terrorism or assassination, on grounds of expediency (Ex. 21, p. 18). The terrorism employed by a "going" revolutionary party, well disciplined and well organized is another matter. To object to this "organized" terror, *on principle*, only merited scornful laughter (Ex. 21, pp. 18-19). Browder constantly reminds us that this 1938 constitution primarily deals with the pre-revolutionary united front-tactic, and expediency for Communist Party of the United States of America growth, solidarity and preservation. On so important a *revolutionary policy*, the 1938 Constitution speaks softly (Ex. 4, pp. 5-6), but this Section 5 of Article X thereof is in no sense a repudiation of that important *revolutionary policy*. The affiliation to the Communist International and endorsement of what it embodied still continued (Ex. 4, p. 6, Article XI; See Ex. 5, Constitution of Communist International). Force and violence was still the policy for revolution, when the masses were led thereto.

told when, where, and how it would be fought (Ex. 21, p. 59, Ex. 37, p. 49). The time for use of force and violence, the choice of the historic moment, was something for the authoritative bodies to decide very carefully (Ex. 22, pp. 95-96). But the integral *revolutionary* policy applicable to *revolution* remained.

The evidence clearly establishes that at least throughout the period involved (1925 to October, 1939), Marxism-Lenmism, embodied in the Communist International and subscribed to by the Communist Party of the United States of America did not alter as to its integral *revolutionary* policy; to-wit, to overthrow the bourgeois states (including the United States) and to establish the dictatorship of the proletariat (with its *new* "State"), by *the* method of force and violence in an armed revolution, rebellion; or insurrection. Force and violence was *the* method prescribed for the *revolutionary* transformation to this *reality*. *Violent* proletarian revolution was the *inevitable law* of the *revolutionary* movement.

Accordingly, the respondent is found subject to deportation on the second, third, and fourth lodged charges on the basis of the foregoing documentary evidence.

As shown, the documentary evidence speaks for itself and is thus fixed or "objective". Testimony by the respondent and his witness might well be suaded by personal and Party interest, so that it would not be surprising if their testimony was guarded or evasive or even contradictory. The testimony of the governments' witnesses is useful for the period they adequately cover. Accordingly, the oral testimony is considered as of secondary value on this issue, primary reliance being placed on the "official" documentary evidence, as noted before.

D. *Oral Testimony Relating to Advocacy of Force and Violence by the Communist International and the Communist Party of the United States of America during 1925 to October 1939.*

Two witnesses were presented by the government; Hewitt was a member of the Communist Party of the United States of America from 1927 to 1944 and Pitcoff was a member of the same organization from 1926 to 1934. The respondent presented his witness Schneiderman; both

were members of the Communist Party of the United States of America at least from 1925 until October, 1939. Government witnesses Hewitt and Pitcoff testified that they had been organizers for the Communist Party of the United States of America. Government witness Hewitt and respondent's witness Schneiderman testified that they had held official positions in the Communist Party of the United States of America. Government witness Hewitt stated he taught in the Communist Party of the United States of America from about 1936 to 1944. Respondent's work (as organizer, "editor", etc.) in the Communist Party of the United States of America was noted heretofore (see pages 3 and 4 of this memorandum).

In substance, government witness Hewitt testified that he had been taught by and had taught for the Communist Party of the United States of America the advocacy of force and violence in the overthrow of the government of the United States; that the Communist Party of the United States of America had at least from 1927 to October 1939 advocated force and violence in the overthrow of the government of the United States; that he had received training (in Russia while connected with the Communist Party of the United States of America) for armed conflict and tactics in warfare as part of his training in the Communist Party of the United States of America (pp. 126-254).

Then, government witness Pitcoff testified that the Communist Party of the United States of America advocated the use of force and violence to overthrow the government of the United States at least during the period of his membership from 1926 to 1934 (pp. 254-274).

The respondent's witness Schneiderman testified (pp. 277-599) much to the same effect as was noted in his case before the Supreme Court of the United States in *Schneiderman* v. *U. S.*, 320 U. S. 118. In substance, the witness Schneiderman admitted that the basic principles adhered to by the Communist Party of the United States of America had never changed and that these basic principles were those of Marxism-Leninism (pp. 351-352). This is conceded by the respondent, too (see supplementary brief) Respondent's witness Schneiderman testified that force and violence entered into all social changes in that those ruling classes that were being ousted would always use violence to prevent the "democratic" will of the people

from being realized (pp. 3, 65).[16] The respondent had testified similarly (pp. 59, 60). Witness Schneiderman referred to the *theoretical possibility* of a "peaceful" transition in the United States, as elsewhere (p. 532). So did the respondent. Schneiderman admitted that the shattering of the United States government was a precondition to a real people's revolution here (p. 546). Force and violence were to be expected here to effect this aim (p. 375). Both Schneiderman and the respondent were irresponsive as to the aim of the Party in the establishment of the dictatorship of the proletariat here, after the United States government was overthrown.

The testimony of respondent and his witness Schneiderman is to the effect that the basic principles adhered to by the Communist Party of the United States of America have never changed and that these basic principles are those of Marxism-Leninism. Yet the respondent persistently states that neither the Communist International nor the Communist Party of the United States of America, while he was a member/affiliate thereof, advocated the overthrow of the government of the United States by force or violence; and witness Schneiderman insisted the Communist Party of the United States of America never advocated the overthrow of the government of the United States by force or violence.

All the testimony agrees that these organizations sought the overthrow of the government of the United States. There is no dispute that the principles of Marxism-Leninism were those embodied in the Communist International, and endorsed by the Communist Party of the United States of America, for at least the period stated. The government witnesses testified that these organizations (Hewitt 1927-1944, Pitcoff 1926-1934), advocated the use of force and violence to overthrow the government of the

16. This is part of the "moral ascendancy" formula employed throughout the "classics", polemical, and other writings. Wherever the use of force and violence is dealt with at length, the *culpa* is placed on the opposition who will not *yield peaceably*, thus wretchedly "forcing" use of force and violence on the proletariat and the Third International movement.

This view presents them as peaceful "altruists" in politics seeking humanity's improvement. This "pose" seeks to give that impression, notwithstanding its unrelenting stand on no "class-peace", "irreconcilable conflict", force and violence as a *law* of revolution, and making it "impossible" for the capitalist to live and rule as before; as if force was not innate in dialectics. (See Appendix B.)

United States. The respondent and his witness Schneiderman admitted the *probable* necessity for the use of force and violence to overthrow the government of the United States, but "denied" that the Communist Party of the United States of America so "advocated". The government witnesses' statements corroborate what the documentary evidence shows on this issue. The averments of the respondent and his witness on this issue contradict what the documentary evidence shows. No documentary evidence was adduced to corroborate the respondent's and his witness' averment that force and violence was not advocated by these organizations; or that a "peaceful" method was advocated at all; their "averment" stands unsupported.

The convincing character of the documentary evidence that Marxism-Leninism, as embodied in the Communist International and endorsed by the Communist Party of the United States of America did (at least from 1925 to October, 1939) advocate the use of force and violence to overthrow the government of the United States has been demonstrated before. To hold that Marxism-Leninism applies, that the government of the United States is to be overthrown, that force and violence was expected here, and then to assert force and violence was not advocated appears a contradiction, a non-sequitor, a flagrant and unexplained paradoxical position. It is alien to Marxism-Leninism as we have shown, to eschew force and violence, and to espouse "peaceful" methods for the revolution. The untenable position taken by the respondent and his witness, unsupported by either documentary evidence, or logic, must be rejected. Not only the testimony of the government witnesses but all of the "official" documentary evidence weigh against it.[17]

It may be concluded the weight of the oral testimony supports and corroborates the conclusion reached on the basis of the "official" documentary evidence alone. Our conclusions as to the second, third, and fourth lodged charges remain unchanged.

A brief comment is all that is necessary, in view of the use to which the oral testimony has been put, on the ques-

17. Written opinions of various members of the Communist Party of the United States of America which were not relied on as "official" documentary evidence, also support the testimony of the government witnesses and the "official" documentary evidence on the issue. (See Exs. 24, 25, 26, 30, 45.)

tion of the reliability of the government witness Hewitt. His reliability is questioned because he once procured a United States passport in another's name in connection with his going to Russia to receive the "military" training, as noted above. This was considered a *duty* imposed upon him; to proceed to Russia under a "party" name, under the auspices of the Communist Party of the United States of America. He has not admitted the commission of perjury nor has he been prosecuted therefor. Even a "criminal" may give credible testimony (*United States* v. *Gallo*, 123 F. (2d) 229, June 8, 1941). This witness cannot be said to have been so discredited that his testimony in regards to this party was not to be believed. His compliance with Party "requirement" was an act of loyalty thereto. Nor does the fact that this witness may have been over or under responsive on occasion in the hearing proceedings disqualify him. It is a consideration in assaying the value or weight of his testimony, and was so treated.

E. *Distribution, etc. of "Proscribed" Literature by the Communist Party of the United States of America, during 1925-October, 1939.*

Government witnesses Hewitt (pp. 154-159) and Pitcoff (pp. 216-252) each testified as to the distribution by the Communist Party of the United States of America of certain exhibits in evidence. Hewitt's testimony covers the period from 1927 to 1944, and Pitcoff's testimony covers the period from 1926 to 1934. There is no evidence to the contrary.

As to the "classics" utilized in these proceedings for documentary evidence (Exs. 19-23 inclusive) it is clear from the previous discussion (pp. 20-32 of this memorandum) of these "classics" that they each and all advocate the use of force and violence to overthrow all bourgeois states including imperialist-finance-monopoly capitalist States like the United States. Accordingly it is concluded that the evidence of record establishes that the Communist Party of the United States of America, *during* the period of 1925-October 1939, distributed etc., literature advocating the use of force and violence to overthrow this government. It should be noted that the distribution of any *one* of the Exhibits 19-23, would be sufficient to support the lodged charge No. 5.

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In addition, the record establishes other literature in evidence was distributed by the Communist Party of the United States of America during the interval stated (Ex. 5 and Ex. 5A, pp. 145, 146; Ex. 27, pp. 172, 264, 343; Ex. 11, p. 148; Ex. 12, p. 149; Ex. 47, p. 464). Exhibit 5 (Ex. 5A) is the Program and Constitution of the Communist International, adopted in 1928. It is a definitive recapitulation and summarization of Marxism-Leninism from at least 1919. It was shown heretofore as advocating the use of force and violence in the overthrow of the government of the United States. Its companion work appears in Exhibit 27, which is a resolution of the Communist International's Sixth World Congress, entitled *The Struggle Against Imperialist War and Tasks of the Communists.* It also refers to converting imperialist war into civil war, restates the needs for uprisings in the break-up of the bourgeois states, mentions working in bourgeois armed forces to cause revolt, and emphasizes the need to protect the U.S.S.R. *by every* possible means when it is under imperialist attack, even to the extent of *defeating* one's "own" country (see pp. 13, 22-28, 47-49 of Ex. 27). The same is true of Exhibit 11 (see pp. 138-142 thereof) and Exhibit 12 (see pp. 45-48, 77 thereof), each advocating the Leninist policy of converting imperialist war to civil war, and specifying what to do in its political strikes and battles for power. In Exhibit 47 (pp. 30-39, 44-47 thereof) we have advocacy of "armed" force, the repudiation of peaceful or legal methods, the use of "Soviet power", and a confirmation of what is said in Exhibit 11 as to transforming imperialist war into civil war so as to seize power.

The distribution of any of these exhibits (19, 20, 21, 22, 23, 5, 5A, 27, 11, 12, 47) during the interval stated supports the lodged charge No. 5, for *each* of them is held to advocate the overthrow of the government of the United States by force and violence. Nothing is gained as to this lodged charge No. 5 by discussing the "unofficial" documents in evidence also distributed during this interval by the Communist Party of the United States of America (Exs. 24, 25, 26, 30, 45), for that would be merely cumulative.

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F. Respondent's Past Belief in or Advocacy of the Overthrow of the Government of the United States by Force and Violence, during 1925-October 1939.

Counsel states in supplementary brief that the government has *proved* that the respondent believed in Marxism-Leninism, but has *failed to prove* that the respondent held any belief in or advocated use of force and violence to overthrow the government of the United States, as charged in lodged charge No. 1. This statement is not consistent, to our view, since it has been established that Marxism-Leninism did so advocate and did so hold, as part of its *integral revolutionary theory or policy.*

On the record before us it would be difficult to conclude that the respondent was not well aware that he was a member/affiliate of organizations (Communist International and Communist Party of the United States of America) and was aiding these organizations which advocated, advised, and taught the overthrow of this government by force and violence. Such awareness and such conduct utterly belie his present averment i.e. his denial that he ever believed in or advocated the overthrow of this government by force and violence. This averment is a tax on credulity and cannot be accepted. A calculus of the probabilities which arise from the evidence of record leads irresistably to the reasonable conclusion that the respondent did believe in the overthrow of the government of the United States by force and violence, at least during the period 1925-October 1939.

The respondent showed a *selective* preference when he left the Socialist Party and later joined the Communist Party in 1925. He had schooling from the Communist Party of the United States of America as to what it and the Communist International stood for. He was by no means or in any sense an inactive, or indolent, or "fringe" member/affiliate of these organizations. He became a party "organizer". While so engaged he found himself in several situations which resulted in his arrest for labor demonstrations etc. He was pledged to, subscribed to, believed in the principles of Marxism-Leninism from at least 1925 to October 1939. He still believes in these principles. He admits this himself.

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He is in no sense a novice or neophyte. He was acquainted with the "classics" introduced into this record (Exs. 19-23). He exhibited familiarity with literature repudiating Second International and other ideologies inimical to the Marxism-Leninism embodied in the Communist International (Third International movement). He demonstrated his close acquaintance with the Marxist-Leninist theory and practice and tactics, to the extent of referring to an *1878* extract from minutes of a German Reichstag meeting in Berlin, relating to certain remarks of Bebel, reprinted later in a book by Marx, which is not in evidence (p. 105). The whole record indicates that the respondent was very well aware indeed of the fundamental theory and practice of Marxism-Leninism during the period he was a member/affiliate of the Communist Party of the United States of America and Communist International. We have demonstrated that Marxism-Leninism held *violent* revolution to be the *law* of revolution.

Again, the respondent was an active member/affiliate of these organizations which embodied Marxism-Leninism, when the 1928 resolution (Ex. 27), Program and Constitution of the Communist International (Ex. 5) were adopted; when "exceptionalists" like Gitlow and Lovestone were rejected by the party. He made the pledge, as shown in the typical membership book for 1930 (Ex. 18), to support these organizations. In 1930, he stated he wished to overthrow the government of the United States (Ex. 6) but was careful to say when asked "not by force and violence" and then departed before he could be served with the warrant of arrest (Ex. 1). He was considered sufficiently well versed in the principles of Marxism-Leninism and sufficiently loyal thereto, by his Party, so as to be entrusted with the dissemination of the Party "line" to readers of Greek in a Greek publication here; of which publication he was "sort of an editor". His loyalty was not questioned by his Party at any time. He says he left the Party in October 1939 merely because he was not a United States citizen. When his awareness of Marxism-Leninism principles is coupled with his long period of devoted service aiding the Communist movement which embodied these principles (which we have shown included force and violence a high policy, a *law* of revolution), his denial on the issue dwindles to a mere self-serving device.

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His stated theory of *when* the use of force and violence would be justified (when resistance is offered) is not a repudiation of any principle of Marxism-Leninism, but supports a conclusion he did and does believe in the use of force and violence, at least under certain circumstances. His argument about the nationization of property by parliamentary means still does not constitute a repudiation of the force and violence *law* or any other principle of Marxism-Leninism. There remain further objectives of Marxism-Leninism and its advocacy of the use of force and violence to achieve these aims persist, i.e. the overthrow of the bourgeois governments, the establishment of the dictatorship of the proletariat (with its new "State"), mutual help in the world proletarian revolution and particularly help to the U.S.S.R. when under "imperial" attack. Not one bit of documentary evidence was adduced to support the position taken by the respondent on this issue to show when the *law* of revolution ceased to advocate force and violence under the principles of Marxism-Leninism. We have shown before how it fully applied to the United States at least since 1917, as a *law* of revolution.

His "partial" *admission*, indicating the probable need for force and violence here, his loyalty and active participation in aiding these organizations, his avowed endorsement of the principles of Marxism-Leninism, his obvious awareness of such principles, the Party's strict regimen and discipline, all unmistakably support the reasonable conclusion that he actually did believe in the overthrow of the government of the United States by force and violence from at least 1925 to October 1939. Such a belief is consistent with Marxism-Leninism, as shown. The contrary view presented, of a "peaceful" method to achieve its aims, is utterly inconsistent with such principles. Moreover the respondent said he could not determine in advance what methods would be employed to take over the government

(p. 100).[18] It would be naif, to the extent of unpardonable gullibility, to reach any other conclusion as to the respondent's belief on this issue. Accordingly, it is found that the evidence of record sustains the lodged charge No. 1.

From the foregoing, considering the evasive answers of the respondent and his unequivocal assertion that he believes now in the same principles of Marxism-Leninism which he subscribed to during the time he was a member/affiliate of the Communist International and Communist Party of the United States of America (p. 96), there would appear to be sufficient basis, in view of the evidence before us, to lodge an additional charge as to present belief in the overthrow of the government of the United States by force and violence. No useful purpose would now be served in having the hearing reopened so that such an additional charge could be lodged, in view of his having been found deportable on all the charges lodged against him at the previous hearings.

VI. Burden of Proof

There is no dispute that the government bears the burden of proof in these deportation proceedings.[19] Counsel asserts that the government is called upon to establish this case by more than a mere preponderance of the evidence and points to the case of *Schneiderman* v. *U. S.* (320 U. S. 118). It is the view of this Service that a fair preponderance of the evidence is all that is required here,

18. This is in keeping with a maxim of Marxism-Leninism, i.e., not to tie one's hands in advance.

"To tie one's hands beforehand, openly to tell the enemy, who is at present better armed than we are, whether we shall fight him and when, is stupidity and not revolutionariness. To accept battle at a time when it is obviously advantageous to the enemy and not to us is a crime; and absolutely worthless are those political leaders of the revolutionary class who are unable 'to tack, manoeuvre and compromise' in order to avoid an obviously disadvantageous battle". (Ex. 21, p. 59; see also Ex. 37, p. 49.)

In contrast, see Stalin's conception *when* a "peaceful" method was *possible* or *conceivable* (p. 27 of this memorandum; Ex. 22, p. 56). What is at issue is *not* the "conceivability" or "possibility" of a "peaceful" method, *if there is no resistance;* the *probable* method believed in or advocated is at issue.

19. Section 23 of Immigration Act of 1924; 43 Statute 165-166; 8 U. S. C. 221; *Hughes* v. *Tropello*, 296 F. 306 (C. C. A. 3, 1924); *Palmer* v. *Ultimo*, 69 F. (2d) 1 (C. C. A. 7, 1934); *Werrmann* v. *Perkins*, 79 F. (2d) 467 (C. C. A. 7, 1935).

that it has met its burden of proof as to quantum of evidence and degree of proof, and that only a brief comment is necessary to distinguish the case cited by counsel.

In the Schneiderman case (supra), the government had brought proceedings (in 1939) to have declared a nullity a court's order (in 1927) granting citizenship. This action was brought on the ground the naturalization was illegally procured because Schneiderman was not attached to the principles of the United States Constitution for the period required by law in his case in 1927. It was a denaturalization proceeding, and not a criminal proceeding. It was not based on fraud. Yet the majority opinion in the Supreme Court of the United States (in 1943) held that the rule usually applicable in criminal or fraud cases, would be applied in that denaturalization. It held the facts should be construed as far as reasonably possible in favor of the naturalized citizen in that case, because the citizenship right conferred by court order in 1927 should not be taken away without clear justification. It therefore held that the government's burden had to be met with evidence of a clear, convincing, and unequivocal nature to establish that when citizenship was conferred by the court in 1927, it was not done in accordance with strict legal requirements.

The majority opinion pointed out that the government had had an opportunity to be heard in the 1927 hearing before the naturalization court, and then had a right to appeal if it so desired. It held that the remedy in denaturalization was much narrower than that afforded in a direct appeal from a lower court's decision. Thus the rule of what the reasonable man might conclude from a mere preponderance of the evidence was not found acceptable by the majority in the Supreme Court in Schneiderman's case, because of what was involved, *i.e.*, a reexamination of a naturalization court judgment rendered many years before and a possible reversal of that court's judgment.

This holding by the majority of the Supreme Court in the Schneiderman case (supra) has no application in *deportation* proceedings before an administrative agency, charged with the enforcement of the applicable deportation statute. There is no court judgment as to this respondent which is being reexamined or possibly reversed here. (*United States* v. *District Director of Immigration and*

Naturalization, 169 F. (2d) 747 (C. C. A. (2d) 1948). The government's burden of proof has been amply met by substantial evidence in this case and certainly by a fair preponderance thereof.

There is one other point to which counsel refers, as to which the government has no burden of proof. Counsel made references to certain documents and the respondent has made certain references purporting to indicate that "revolution" or "civil war" are in the American tradition. Neither the respectability or sanction by tradition or otherwise of "revolution" or "civil war" is in issue in these proceedings. This Service is charged with determining whether this alien comes within the purview of the statute which renders him deportable. A conclusion has been reached that the respondent is subject to deportation on all of the lodged charges, and the government has met its burden by ample substantial evidence.

FINDINGS OF FACT: Upon the basis of all the evidence presented, it is found:

(1) That the respondent is an alien, a native and citizen of Greece;

(2) That the respondent was admitted into the United States for permanent residence on March 7, 1916 at New York and has remained here since;

(3) That the respondent was an active member/affiliate in good standing of the Communist Party of the United States of America from at least 1925 to October 1939 and that during such period at least that organization believed in, advised, advocated, and taught the overthrow of the government of the United States by force and violence;

(4) That the respondent was affiliated with the Communist International from at least 1925 to October 1939, and that during such period at least that organization believed, advised, advocated and taught the overthrow of the government of the United States by force and violence;

(5) That the respondent was an active member/affiliate in good standing of the Communist Party of the United States of America from at least 1925 to Oc-

tober 1939 and that during such period at least that organization circulated and distributed, and caused to be circulated and distributed, written and printed matter advising, advocating, and teaching the overthrow of the government of the United States by force and violence;

(6) That the respondent, during at least from 1925 to October 1939 believed in the overthrow of the government of the United States by force and violence, and continues to hold the same views thereon since October 1939;

(7) That during at least from 1925 to October 1939 the Communist Party of the United States of America was affiliated with the Communist International.

Conclusions of Law: Upon the basis of the foregoing findings of fact, it is concluded:

(1) That under the Act of October 16, 1918, as amended, the respondent is subject to deportation, in that after entry, he was a member of the following class set forth in Section I of said Act:

> An alien who is affiliated with an organization, that believes in, advises, advocates, and teaches the overthrow of the Government of the United States by force and violence, *i.e.*, the Communist International;

(2) That under the Act of October 16, 1918, as amended, the respondent is subject to deportation in that after entry, he was a member of the following class set forth in section 1 of said Act:

> An alien who is a member of and affiliated with an organization, that advises, advocates, and teaches the overthrow of the Government of the United States by force and violence, *i.e.*, the Communist Party of the United States of America;

(3) That under the Act of October 16, 1918, as amended, the respondent is subject to deportation in that after entry, he was a member of the following class set forth in section 1 of said Act:

An alien who is a member of and affiliated with an organization, that circulates and distributes, and causes to be circulated and distributed, written and printed matter advising, advocating, and teaching the overthrow of the Government of the United States by force and violence, *i.e.*, The Communist Party of the United States of America;

(4) That under the Act of October 16, 1918, as amended, the respondent is subject to deportation, in that after entry, he was a member of the following class set forth in section 1 of said Act:

An alien who beleives in, the overthrow of the Government of the United States by force and violence;

(5) That under the Act of October 16, 1918, as amended, the respondent is subject to deportation, in that after entry, he was a member of the following class set forth in section 1 of said Act:

An alien who is a member of an organization, that believes in, advises, advocates, and teaches the overthrow of the Government of the United States by force and violence, *i.e.*, The Communist Party of the United States of America;

(6) That the respondent is not subject to deportation on the ground that he has been found in the United States in violation of the Act of October 16, 1918, as amended by the Act of June 5, 1920, in that he is a member of, or affiliated with an organization, association, society, or group that believes in, advises, advocates, or teaches the overthrow by force or violence of the Government of the United States or of all forms of law;

(7) That under Section 20 of the Immigration Act of February 5, 1917, the respondent is deportable to Greece at Government expense.

OTHER FACTORS: The respondent has lived here since his lawful admission in 1916. He has a citizen wife and two native born children, dependent upon him for support. The record shows no police record since 1930. He has pre-

sented several affidavits as to his character, Exs. 17A, 17B). The record contains no adverse information as to his behavior as a husband and father. These are elements in his favor.

Even if the alien were not ordered deported, an obstacle to his naturalization on the basis of his petition filed in 1944 will be presented in view of the provisions of Section 305 of the Nationality Act of 1940 (because of membership in a prescribed organization within the preceding 10 years). Upon the issuance of the warrant of deportation such petition would fail because of the residential requirement for naturalization.

The charges upon which deportation is predicated herein place the alien within a class of persons enumerated in Section 19 (d) of the Act of February 5, 1917 as amended, so as to bar him from the discretionary relief contained in Section 19 (c) of that Act, except insofar as voluntary departure might be authorized in conjunction with the advance grant of relief under the Seventh Proviso to Section 3 of the Act of February 5, 1917. The question presented is whether the record justifies a grant of such relief from deportation, even if the alien be otherwise eligible.

Section 2 of the Act of October 16, 1918, as amended calls upon the Attorney General to deport aliens found deportable under that Act. Section 3 of that Act makes it a felony with prison penalty upon conviction to enter or attempt to enter the United States after such deportation; and after such conviction and imprisonment the Attorney General again has been called upon to deport such aliens.

In the fact of such legislative intent, relief from deportation in the form of voluntary departure and advance Seventh Proviso relief would not be justified unless there were strong appealing features in the case and such relief appeared to be in the best interest of the United States.

The respondent has been found to have been an *active* member/affiliate of prescribed organizations for over 14 years at least (1925 to October 1939). He insists that he *still* maintains the views and beliefs of Marxism-Leninism which he held previously during the period from 1925 to October 1939, and thereafter. In addition, his membership in and association with the International Workers Order (an organization on the Attorney General's list of "subversive organizations") began in 1935 and *still continues.*

Furthermore he was a member of the Spartacus Group, reputed to be a Communist "strong-arm" group from 1933 to about 1941 when it went out of existence. The record also shows that he filed a declaration of intention to become a citizen of the United States in 1922 but had not filed a petition for naturalization until 1944. All the foregoing raises a serious question as to his attitude towards this country. It cannot be said from this record that it would be to the best interest of the United States to grant him any relief from deportation. In addition the unfavorable factors far outweigh any favorable ones. To grant relief from deportation would not be justified on the basis of this record and deportation should be ordered.

RECOMMENDATION: It is recommended that the respondent be deported to Greece at Government expense on the following charges:

(1) That under the Act of October 16, 1918, as amended, the respondent is subject to deportation, in that after entry, he was a member of the following class set forth in Section 1 of said Act:

> An alien who is affiliated with an organization, that believes in, advises, advocates, and teaches the overthrow of the Government of the United States by force and violence;

(2) That under the Act of October 16, 1918, as amended, the respondent is subject to deportation in that after entry, he was a member of the following class set forth in section 1 of said Act:

> An alien who is a member of and affiliated with an organization, that advises, advocates, and teaches the overthrow of the Government of the United States by force and violence;

(3) That under the Act of October 16, 1918, as amended, the respondent is subject to deportation, in that after entry, he was a member of the following class set forth in section 1 of said Act:

> An alien who is a member of and affiliated with an organization, that circulates and distributes, and

causes to be circulated and distributed, written and printed matter, advising, advocating, and teaching the overthrow of the Government of the United States by force and violence;

(4) That under the Act of October 16, 1918, as amended, the respondent is subject to deportation, in that after entry, he was a member of the following class set forth in Section 1 of said act:

An alien who believes in, the overthrow of the Government of the United States by force and violence;

(5) That under the Act of October 16, 1918, as amended, the respondent is subject to deportation, in that after entry, he was a member of the following class set forth in Section 1 of said Act:

An alien who is a member of an organization, that believes in, advises, advocates, and teaches the overthrow of the Government of the United States by force and violence.

A. C. DEVANEY
Chief Examiner

So Ordered:

JOSEPH SAVORETTI
Assistant Commissioner

Appendix "A"

List of Exhibits in the Hearing Record of Peter Harisiades

A-5300756

Exhibit 1—Warrant of arrest issued on April 12, 1930 and served on May 2, 1946.

Exhibit 2—Application for verification of arrival; and verification of arrival of Panagiotis Hadjielias on March 7, 1916 at New York.

Exhibit 3—A New York City Police statement of no record under the name of or fingerprints of Peter Harisiades.

Exhibit 4—Photostatic copy of *The Constitution and By-Laws of the Communist Party of the United States of America,* published by Workers Library Publishers, Inc., New York August 1938, and stating that this Constitution was adopted in 1938 at the 10th National Convention of the Communist Party of the United States of America and was ratified subsequently by the Party membership, after discussion in the Branches of the Party (Identified and authenticity established in the hearing on page 27, and on pages 144-145).

Exhibit 5—Photostatic copy of *Program of the Communist International* (together with its Constitution) 1936 Workers Library Publishers, New York, which indicates that this Program of the Communist International together with the Constitution was adopted at the 46th Session of the 6th World Congress of the Communist International September 1, 1928 (Identified and authenticated in the record on pages 29, 30, 145).

Exhibit 5a—Pamphlet copy of *Programme of the Communist International* (together with the Constitution and Rules of the Communist Interna-

tional) Workers Library Publishers, Inc., New York, printed in U. S. A.—First Edition—December 1, 1929, New York, New York (Identified and authenticated in the record on pages 47, 51, 146 and 265).

EXHIBIT 6—Preliminary sworn statement taken from Peter Hagelias prior to the issuance of the warrant of arrest against Peter Hagelias on April 12, 1930. (The respondent did not object to the introduction of this statement as an exhibit, see page 36 of the hearing.)

EXHIBIT 7—Marriage certificate of Peter Hagelias showing marriage in New York City on September 15, 1937. (Introduced and identified for the record on page 42.)

EXHIBIT 8—Birth certificate of Irene Harrison Hagelias, on August 5, 1939, Bronx, New York. (Identified and introduced in the record on page 43.)

EXHIBIT 9—Birth certificate of George Harrison Hagelias, on October 9, 1944, Brooklyn, New York. (Identified for the record on page 43.)

EXHIBIT 10—Photostatic copy of "The Communist", Volume XIII, May, 1934, No. 5, pages 427 through 429, containing an editorial entitled "The Eighth Convention of Our Party" (Identified and authenticated pages 52, 66, 147, 266—objection generally page 53, authenticity not doubted, page 66).

EXHIBIT 11—Photostatic copy of "The Communist", February 1934 edition, pages 131 to 144, containing the *Thesis of the Thirteenth Plenum of the Executive Committee of the Communist International.* (Conceded to be such excerpt from such publication, page 57, and identified for the record on page 149.)

Department of Justice Record Annexed to the Return

Appendix "A"

EXHIBIT 12—Photostatic copy of *The Way Out*, A Program for American Labor, with introduction by M. J. Olgin, published May 1934 by Workers Library Publishers, Post Office Box 148, Station D New York City, containing such introduction, and *Manifesto and Principal Resolutions* adopted by the Eighth Convention of the Communist Party of U. S. A., held in Cleveland, Ohio, April 28, 1934 (pages 20 through 100 of this pamphlet) introduced as Exhibit No. 12, identified for the record on pages 66, 149 and 265 (the same three resolutions appear in the May 1934 edition of "The Communist" on pages 430 through 489) page 65.

EXHIBIT 13—A letter dated March 20, 1947 from respondent's counsel to the effect that she was unable to secure the "Report to the Emergency National Convention of the Communist Party dated November 16, 1940" which had been stipulated to be introduced into evidence in this case as Exhibit 13, if secured (pages 83, 84).

EXHIBIT 14—Pamphlet copy of *Constitution of the Communist Party of the United States of America* (together with By-Laws of the Communist Party of the State of New York), published by the Communist Party of the State of New York (1945), consisting of 32 pages, and bearing a footnote on page 23 stating this Constitution was "Adopted by the Communist Party, U. S. A. July 28, 1945" (presented in behalf of respondent and introduced into the record page 85).

EXHIBIT 15—Photostatic copy of "The Communist" July 1934, Volume XIII, No. 7, pages 611-615 referring to "The Darrow Report", an editorial therein (pages 88, 89, 178 and 266 for identification).

EXHIBIT 16—Photostatic copy of "The Communist" July 1934, Volume XIII, No. 7, pages 655 through 663, referring to a statement of the Central

Committee, Communist Party of U. S. A., entitled "Unify the Forces of All Steel Workers for Aggressive Unionism" (identified and authenticated for the record pages 88, 89, 178, 266).

EXHIBIT 17A and 17B—Affidavits 17A by Demetrius Christopher dated May 3, 1946. 17B by James George Politis, dated May 3, 1946. (Identified and introduced into the record on page 112.)

EXHIBIT 18—Photostatic copy of Membership book No. 15059 of the Communist Party of the U. S. A. (Section of the Communist International) issued 1930, the printed matter therein offered as a typical Communist Party membership book for the year 1930 (identified and introduced into record pages 152-153).

EXHIBIT 19—Pamphlet copy form of Manifesto of the Communist Party (The Communist Manifesto, 1848) by Karl Marx and Friedrich Engels authorized English translation, edited and annotated by Friedrich Engels (1888) published by the International Publishers (All Rights reserved, 1932), Eleventh Printing, April 1939 (pages 153 and 155 identified for the record).

EXHIBIT 20—Photostatic copy of *State and Revolution* (Marxist Teaching about the Theory of the State and the Tasks of the Proletariat in the Revolution) by V. I. Lenin, revised translation, reprinted from *Toward the Seizure of Power* by V. I. Lenin published by the International Publishers of New York. Copyright 1932, Third Printing, 1935 (identified and introduced into the record pages 155, 156 referred to on page 260).

EXHIBIT 21—Photostatic copy of *"Left-Wing Communism", An Infantile Disorder*, by V. I. Lenin, new translation bearing a dedication on April

27, 1920 to Lloyd George, and published by the International Publishers, copyright 1940 (identified and introduced in the record page 157). A witness identified this work as having been issued since 1929. (Exhibit is also referred to on page 261.)

EXHIBIT 22—Photostatic copy of *Foundations of Leninism* by Joseph Stalin, new translation published by the International Publishers, copyright 1939 has a note that it contains a series of lectures delivered at Moscow, in the beginning of April 1924, shortly after death of Lenin. Identified and introduced into the record page 158, the witness stating that he had seen such a pamphlet since 1929. It is also referred to on page 261.

EXHIBIT 23—Photostatic copy of *Problems of Leninism*, by Joseph Stalin, published by the International Publishers, copyright 1934, printed U. S. A. The witness identified this pamphlet and stated that he had seen such a work since 1929 (pages 158 and 159. It is also referred to on page 262).

EXHIBIT 24—Photostatic copy of *The Communist Party in Action*, by Alex Bittelman, published by the Workers Library Publishers, May 1934 first, second and third printing 1932, Third Revised Edition May 1934 (identified and introduced into the record page 160, and page 162. Also referred to on page 262).

EXHIBIT 25—Photostatic copy of *Why Communism*, by M. J. Olgin, published by the Workers Library Publishers, Copyright 1935, First Edition December 1933, Second Printing February 1934, First Revised Edition March 1934, Second Printing May 1934, Second Revised Edition May 1935 (introduced and identified in the record on pages 162 and 165. Also referred to on page 162).

Department of Justice Record Annexed to the Return

Appendix "A"

EXHIBIT 26—Photostatic copy of Political Education, Part Two, "The Ultimate Aim" published by International Publishers, Copyright 1935 (introduced and identified for the record pages 170 and 171).

EXHIBIT 27—Photostatic copy of *The Struggle Against Imperialist War and the Tasks of the Communists.* Resolution of the Sixth World Congress of the Communist International, July-August, 1928, Workers Library Publishers, First Edition, December 1932, Second Edition July 1934 (identified in the record pages 171 and 172 and page 263).

EXHIBIT 28—Photostatic copy of "The Communist", July 1929, referring to article entitled, "The Revolutionary Struggle against Imperialist War" by H. M. Wicks, pages 355 through 359 (introduced and identified for the record pages 172 and 173 and referred to on page 264).

EXHIBIT 29—Photostatic copy of *Thesis and Resolutions for the Seventh National Convention of the Communist Party of the U. S. A.*, by Central Committee Plenum, March 31-April 4, 1930, Workers Library Publishers (identified and introduced into the record pages 175 and 176. Referred to on pages 265, 345).

EXHIBIT 30—Photostatic copy of "The Communist" Volume XIV February 1935, No. 2 referring to article entitled "The Socialist Revolution in the United States" by Alex Bittelman, appearing on pages 127 through 147 in this exhibit (identified and introduced into the record on pages 177 and 178).

EXHIBIT 31—Photostatic copy of a photograph submitted by witness Hewitt (identified and introduced into the record pages 226 and 227).

EXHIBIT 32—Photostatic copy of another photograph submitted by witness Hewitt (identified and introduced into the record, pages 228 and 229).

Department of Justice Record Annexed to the Return

Appendix "A"

EXHIBIT 33—"Daily Worker" December 15, 1934, submitted by respondent's counsel and referring to article on page 2 thereof saying that one Joseph Zack, Jack Taylor and Robert Strong expelled from the Communist Party (identified for the record on page 272).

EXHIBIT 34—Pamphlet copy of the *Constitution of the Communist Party of the United States of America* published by the Communist Party of the U. S. A. National Office, New York, February 1947 (identified and introduced into the record pages 283 and 284, the respondent's Exhibit 14 appears to be the same as the respondent's Exhibit 34).

EXHIBIT 35—Pamphlet copy entitled "Democracy or Fascism, Earl Browder's report to the Ninth Convention of the Communist Party" published by Workers Library Publishers, 1936 (identified and introduced in the record by the respondent pages 285 and 286).

EXHIBIT 36—Pamphlet copy entitled "The Communist Election Platform, 1936" ratified at the National Nominating Convention of the Comnist Party of the U. S. A. June 28, 1936 (introduced into the record and identified in behalf of respondent pages 286, 287).

EXHIBIT 37—Pamphlet copy entitled "The Communists in the People's Front" (report delivered to the Plenary meeting of the Central Committee of the Communist Party of the U. S. A. held June 17-20, 1937 published by Workers Library Publishers July 1937 (identified and introduced into the record in behalf of the respondent, page 287).

EXHIBIT 38—Pamphlet copy entitled "Communist Election Platform" adopted by the National Nominating Convention May 28-29, 1932 (introduced and identified for the record in behalf of the respondent on page 288).

Department of Justice Record Annexed to the Return

Appendix "A":

EXHIBIT 39—Pamphlet copy entitled "The Democratic Front", by Earl Browder, report delivered May 28, 1938 to the Tenth National Convention of the Communist Party of the U. S. A. on behalf of the National Committee (introduced and identified in the record pages 288 and 289, on behalf of the respondent).

EXHIBIT 40—Pamphlet copy entitled "The Communist Election Platform, 1938" by National Committee of the Communist Party, U. S. A. (introduced into the record and identified pages 289 and 290, on behalf of the respondent).

EXHIBIT 41—Pamphlet copy entitled "Resolutions of the Ninth Convention of the Communist Party" (Ninth National Convention of the Communist Party held June 24-28, 1936) published 1936 by the Workers Library Publishers (identified and introduced in the record page 290, on behalf of the respondent). (See Ex. 35.)

EXHIBIT 42—Pamphlet copy entitled "Resolutions of the Tenth Convention of the Communist Party, U. S. A.", adopted at National Convention held in New York May 27 to 31, 1938 (introduced and identified in the record on pages 290 and 91, on behalf of the respondent).

EXHIBIT 43—Pamphlet copy entitled "Election Platform of the Communist Party, 1940" published Workers Library Publishers, Inc. 1940 (identified and introduced in the record pages 291 and 292, on behalf of the respondent).

EXHIBIT 44—Photostatic copy containing a telegram appearing on pages 319 and 320 of "The Communist" of the April 1938 issue, signed by Earl Browder, General Secretary, Communist Party, U. S. A. (introduced and identified in the record pages 292 and 293, on behalf of respondent).

Department of Justice Record Annexed to the Return

Appendix "A"

EXHIBIT 45—"The Communist" July 1934 edition, referring to article entitled "The Socialist Party Convention—a Communist Estimate", appearing on pages 615 through 638 of that issue of "The Communist" (identified and introduced in the record on pages 424 and 425). Also referred to on pages 442 and 443.

EXHIBIT 46—Pamphlet copy entitled "Stalin's Speeches on the American Communist Party", delivered in 1929, published by the Central Committee, Communist Party U. S. A. (identified and introduced in the record on pages 441 to 443).

EXHIBIT 47—Pamphlet copy entitled "Resolutions, Seventh Congress of the Communist International" (including the closing speech of G. Dimitroff) published by Workers Library Publishers, New York, November 1935 (identified and introduced in the record page 460, 461 and 462).

EXHIBIT 48—Pamphlet copy entitled "A Letter to American Workers" V. I. Lenin published by International Publishers Co. Inc., copyrighted 1934, second printing 1935 (introduced and identified for the record pages 479, 480 and 481).

Appendix "B"

Remarks and References Regarding Dialectical Materialism

In presenting proof of what the integral revolutionary theory or policy of Marxism-Leninism involved, it was deemed unnecessary to furnish or attempt to furnish an anatomy of its underlying philosophy which is said to be "dialectical materialism". It was deemed more to the point and more precise to note in our memorandum the *conclusions* which purportedly were arrived at through the "dialectical materialism"-approach by its accredited formulators, expounders, and exponents.

A study of "dialectical materialism" yields much insight as to the issues in this case. As the underlying philosophic key to Marxism-Leninism, its importance cannot be over-emphasized. Marx, Engels, Lenin, and Stalin frequently referred to it and consistently employed it *exclusively* as to theory and practice in realizing Communist society.

There is considerable written material on this subject of *dialectical materialism.* Counsel has furnished several "points" as to dialectics which were similar to some of the 16 points covered by R. P. Dutts (a writer on Lenin) in *Labour Monthly* for March 1932. Counsel has referred to Lenin's Granat Encyclopedia article on Marx but the bit furnished from that article is very meager. Counsel has not furnished Lenin's summary therein on dialectics and evolution. Counsel has also referred to a passage from a Marx preface to his *Critique of Political Economy,* which is *part* of one of his celebrated statements (See counsel's supplementary brief p. 10). This passage continues as follows: "In broad outlines we can designate the Asiatic, the ancient, the feudal, and the modern bourgeois methods of production as so many epochs in the progress of the economic formation of society. The bourgeois relations of production are the last antagonistic form of the social process of production—antagonistic not in the sense of individual antagonism, but one arising from conditions surrounding the life of individuals in society; at the same time the productive forces developing in the womb of bourgeois society create the material conditions for the solution of that antagonism. This social formation constitutes, therefore, the closing chapter of the prehistoric stage of human society."

Appendix "B"

No assay is here made to weigh quotations and excerpts against other quotations and excerpts just as in the memorandum a so-called battle of excerpts was not undertaken. In view of counsel's references to some material outside the record, it is deemed useful to juxtapose a few references which, it is believed, pertinently show the following, which were stressed in our memorandum:

1) That Marxism-Leninism was based on a *monist* view (not pluralistic).

2) That Marxism-Leninism was based on historical materialism (not idealism) an important element of which is dialectics (not eclectics), thus avoiding metaphysics and the mystical.

3) That innate in dialectical materialism is the element of struggle and conflict and contradictions, represented in human conflict as force and violence in its higher intensity.

4) That Marxism-Leninism is *for the working class only;* that it contemplates international revolution (society is to be changed all over the world and the workingman has no fatherland in any bourgeois country).

5) That Marxism-Leninism views the state (both bourgeois and proletariat) as *the* instrument of domination of one class over another.

6) That according to Marxism-Leninism *the* steps to be taken in order to fully realize Communist society is first to abolish the bourgeois state by destruction of its machinery and to establish the dictatorship of the proletariat; while all measures of reform including universal suffrage under capitalism is considered simply for the purpose of weakening capitalism, "readying" it for overthrow.

7) That Marxism-Leninism stands for a *new* "state" under the dictatorship of the proletariat, presumably to take the form of a pyramid of councils (Communes or Soviets, under centralism).

8) That in Marxism-Leninism, involving as it does the destruction of the bourgeois state and the establishment of the dictatorship of the proletariat as condi-

tions precedent to a successful and thoroughgoing *revolution* the fulfillment of its aim can hardly be *conceived* as coming to realization *except* by the use of force and violence.

The following references are believed useful in tracing the foregoing points and as a counterpoise to the partial references offered by counsel.

Karl Marx—*The Poverty of Philosophy; Critique of Political Economy; Capital; The Communist Manifesto; Class Struggle in France; Civil War in France.*

Friedrich Engels—*Landmarks of Scientific Socialism; Origin of the Family etc.; Socialism, Utopian and Scientific; Feuerbach, the Roots of Socialist Philosophy; Principles of Communism.*

V. I. Lenin—*State and Revolution; "Left Wing" Communism, an Infantile Disorder,* and works referred to therein. *Materialism and Empire-Criticism; The Proletarian Revolution and Kautsky the Renegade.*

J. Stalin—*Foundations of Leninism; Problems of Leninism; Dialectical and Historical Materialism.*

A. Thalheimer—*Introduction to Dialectical Materialism.*

V. Adoratsky—*Dialectical Materialism.*

David Guest—*Textbook on Dialectical Materialism.*

T. B. H. Brameld—*Philosopher's Approach to Communism.*

L. B. Bludin—*Book of Reference to Marxism; Aspects of Dialectical Materialism by Levy, Bernal, MacMurray, Arnot, Carritt.*

D. Riazanov—*Karl Marx and Friedrich Engels.*

For Hegel's own statement on dialectics see his *Science of Logic;* for Marx's explanation of Hegel's dialectics see his *Poverty of Philosophy,* Chap. II; for Engel's discussion of this subject, see his *Landmarks of Scientific Socialism,* Chap. VII, and his *Socialism, Utopian and Scientific,* Chap. II. "Without conflict, or movement of progress" is underlined by dialectics.

Opinion—Board of Immigration Appeals

UNITED STATES DEPARTMENT OF JUSTICE
BOARD OF IMMIGRATION APPEALS
WASHINGTON, D. C.

May 13, 1949

File: A-5300756

IN THE MATTER

of

PETER HARISIADES

IN DEPORTATION PROCEEDINGS

On December 16, 1948, the Assistant Commissioner found that the respondent was subject to deportation and ordered that he be deported to Greece. This record is before us on appeal from that order.

The statute under which the Assistant Commissioner found the respondent deportable is the Act of October 16, 1918[1], as amended by the Acts of June 5, 1920[2] and June 28, 1940[3].

The respondent was born in Greece in 1903 and is a citizen of Greece. He came to the United States from Greece on March 7, 1916, and has resided in this country since that date. He admitted that from 1925 to October 1939 he was a member of the Communist Party of the United States of America[4]. We shall therefore consider whether during the period of the respondent's admitted membership in the Communist Party of the United States, it advocated the overthrow by force or violence of the Govern-

1. 40 stat. 1012

2. 41 stat. 1008

3. 54 stat. 673

4. From 1931 to 1932 he was an organizer for the Communist Party and from 1933 to 1937 he served as secretary of the Greek bureau of the Communist Party— a subdivision thereof. He served in an editorial capacity on its publication "The Empros" from 1933 to about October 1939. His membership in the Communist Party ended in October 1939 because the Communist Party dropped non-citizens from its rolls (reopened hearing, pp. 18-22, 39).

ment of the United States; and whether during that period it distributed printed matter that so advocated.

Confined to these issues, the pertinent parts of the statute involved read as follows:

That any alien who, at any time, shall be or shall have been a member of one of the following classes shall be excluded from admission into the United States:

* * * * *

(c) aliens who . . . are members of . . . any organization, association, society, or group, that believes in, advises, advocates, or teaches: (1) the overthrow by force or violence of the Government of the United States . . .

* * * * *

(e) aliens who are members of . . . any organization, association, society, or group, that writes, circulates, distributes, prints, publishes, or displays, or causes to be written, circulated, distributed, printed, published, or displayed, or that has in its possession for the purpose of circulation, distribution, publication, issue, or display, any written or printed matter of the character described in subdivision (d)[5].

Sec. 2. Any alien who was at the time of entering the United States, or has been at any time thereafter, a member of any of the classes of aliens enumerated in section 1 of this Act, shall, upon the warrant of the Attorney General, be taken into custody and deported in the manner provided in the Immigration Act of February 5, 1917. The provisions of this section shall be applicable to the classes of aliens mentioned in this Act, irrespective of the time of their entry into the United States (Act of October 16, 1918, as amended by the Acts of June 5, 1920 and June 28, 1940; 40 stat. 1012; 41 stat. 1008; 54 stat. 673; 8 USC 137).

Counsel requested that proceedings before this Board be deferred until after the termination of a criminal trial now taking place in New York, N. Y., in which persons are

5. "Advising, advocating or teaching: (1) the overthrow by force or violence of the Government of the United States."

charged with seeking the forcible overthrow of the Government of the United States. Counsel stated that "experts" engaged by the defendants at that trial were needed by the respondent to analyze the documents in the instant case and that they would not be available until after the conclusion of the New York trial. It is noted, however, that the documents were introduced at the hearings held many months ago. Surely it was the duty of counsel from that time on to determine their meanings. Ample opportunity was therefore available to obtain the advice of "experts" if deemed necessary. Furthermore, we do not believe that the opinions of "experts" regarding the meanings of documents are material. The documents are written for popular consumption and any unusual connotations that they might have are irrelevant. We therefore have denied the request of counsel for a postponement of these proceedings.

In a brief submitted by counsel for the respondent it is argued that the statute involved is unconstitutional on the grounds that (1) it is retroactive (2) it makes punishable a philosophy, and (3) it imputes personal guilt because of membership in an organization.

It is not within the province of this Board to pass upon the constitutionality of statutes enacted by Congress. *Panitz* v. *District of Columbia*, 112 F. (2d) 39, 42; *Todd* v. *Securities and Exchange Commission*, 137 F. (2d) 475, 478; *Central Nebraska Public Power & Irr. Dist.* v. *Federal Power Commission*, 160 F. (2d) 782, 783; *Interchangeable Mileage Ticket Investigation*, 77 I. C. C. 200, 202; *Maritime Assn., Boston Chamber of Commerce* v. *Ann Arbor R. Co.*, 95 I. C. C. 539, 542; *Telephone and Railroad Depreciation Charges*, 118 I. C. C. 295, 325-326; *Galveston Commercial Assn.* v. *Galveston H. & S. A. Ry. Co.*, 128 I. C. C. 349, 378-379; *In the Matter of East Ohio Gas Company*, 1 F. P. C. 586, 592; *Mississippi River Fuel Corporation*, 2 F. P. C. 170, 175.

In oral argument, counsel attempted to distinguish the question of constitutionality of the statute from its constitutionality as applied to the respondent. In other words, it was argued that since the only evidence which supports a finding of former membership in a proscribed organization relates to a period of time antedating the passage of the 1940 amendment, that consequently as applied to the respondent, the 1940 amendment is unconstitutional. To

our mind this argument embodies another attack upon the constitutionality of the statute—its retroactive feature—and we have no jurisdiction to pass upon the question.

It may be noted in passing, however, that the legislative history of the Act of June 28, 1940 shows that it was enacted specifically to include past membership because the Supreme Court had held in *Kessler* v. *Strecker*, 307 U. S. 22, that the Act of October 16, 1918, as amended by the Act of June 5, 1920 did not provide for the deportation of past members of a proscribed organization (House of Representatives report No. 994, 76th Congress, 1st Session, 1939, page 6; *Senate Report No. 1154*, 76th Congress, 1st Session, page 5). We are obliged to give effect to every clause and part of a statute. *Ginsberg & Sons* v. *Popkin*, 285 U. S. 204, 208, 76 L. ed. 704, 52 S. Ct. 322. Furthermore, the prohibition against the passage of ex post facto laws[6] applies only to penal or criminal laws. *Johannessen* v. *U. S.*, 225 U. S. 227, 56 L. ed. 1066, 32 S. Ct. 613; *Bugajewitz* v. *Adams*, 228 U. S. 585, 57 L. ed. 978, 33 S. Ct. 607. The cases of *Cummings* v. *Missouri*, 4 Wall. 277, 18 L. ed. 356, and *Ex Parte Garland*, 4 Wall. 333, 18 L. ed. 366, which have been cited by counsel to prove the contrary, actually support this proposition. In the *Cummings* case the Court held part of the Constitution of Missouri unconstitutional and in the *Garland* case, it held a federal statute unconstitutional, as ex post facto. But in both of these cases, the Court states that "penalties" and "punishment" imposed for prior conduct brought the provisions of the Constitution of Missouri and the federal statute within the ex post facto limitation. Although the courts have stated that deportation may result in the "loss of all that makes life worth living" (*Ng Fung Ho* v. *White*, 259 U. S. 276, 284, 66 L. ed. 938, 942, 42 S. Ct. 492) and that "it may visit as great a hardship as the deprivation of the right to pursue a vocation or a calling" (*Bridges* v. *Wixon*, 326 U. S. 135, 147, 89 L. ed. 2103, 2111, 65 S. Ct. 1443) and that "it can be the equivalent of banishment or exile" (*Delgadillo* v. *Carmichael*, October term, 1947, Supreme Court of the U. S.), they have never construed deportation as punishment or as a penalty so as to bring it within the ex post facto inhibition. On the contrary, the courts have held that the fact that an immigration law

6. Constitution, Art. 1, Sec. 9, Clause 3.

may be retrospective in its application to an alien does not make it unconstitutional. *Mahler* v. *Eby*, 264 U. S. 32, 39, 44 S. Ct. 283, 286, 68 L. ed. 549[7]; *U. S. ex rel. Lubbers* v. *Reimer*, 22 F. Supp. 573[8]. See also *Lauria* v. *U. S.*, 271 Fed. 261, certiorari denied 257 U. S. 635, 66 L. ed. 408, 42 S. Ct. 48[9]. The objections of counsel are therefore overruled.

The Presiding Inspector and the Assistant Commissioner have found that during the period of the respondent's membership, the Communist Party advocated the overthrow, by force and violence, of the Government of the United States. Many court decisions, some on the basis of evidence in part similar to the evidence adduced in the instant case, have reached the same conclusion. *U. S.* v. *Wallis*, 268 Fed. 413, D. C. N. Y. (1920) (Manifesto and Program of the Communist Party); *Skeffington* v. *Katzeff*, 277 Fed. 129, C. C. A. 1 (1922) (Manifesto and Program of the Communist International and Manifesto and Program of the Communist Party of America); *Antolish* v. *Paul*, 283 Fed. 957, C. C. A. 7 (1922); *U. S. ex rel. Lisafeld* v. *Smith*, 2 F. (2d) 90, D. C. (W. D.) N. Y. (1924); *Ungar* v. *Seaman*, 4 F. (2d) 80, C. C. A. 8 (1924); *Ex Parte Jurgans*, 17 F. (2d) 507, D. C. Minn. (1927) affirmed 25 F. (2d) 35, C. C. A. 8 (1928); *Kenmotsu* v. *Nagle*, 44 F. (2d) 953, C. C. A. 9 (1930) certiorari denied 283 U. S. 832 (Communist Manifesto); *Ex Parte Vilarino*, 50 F. (2d) 582, C. C. A. 9 (1931) (Communist Manifesto); *Murdoch* v. *Clark*, 53 F. (2d) 155, C. C. A. 1 (1931); *U. S. ex rel. Yokinen* v. *Commissioner of Immigration*, 57 F. (2d) 707, C. C. A. 2 (1932); *Berkman* v. *Tillinghast*, 58 F. (2d) 621, C. C. A. 1 (1932); *Kjar* v. *Doak*, 61 F. (2d) 566, C. C. A. 7 (1932) (Program of the Communist International); *U. S. ex rel. Fernandas* v. *Commissioner of Immigration*, 65 F. (2d) 593, C. C. A. 2 (1933); *In re Saderquist*, 11 F. Supp. 525, D. C. Me. (1935), affirmed 83 F. (2d) 890 (Program of the Communist International); *U. S. ex rel. Fortmueller* v. *Commissioner of Immigration*, 14 F. Supp. 484, D. C. N. Y. (1936); *Branch* v. *Cahill*, 88 F. (2d) 545, C. C. A. 9 (1937) (Communist Manifesto).[10]

7. The Act of May 10, 1920 was applied retroactively against an alien.

8. The Act of May 14, 1937 was applied retroactively against an alien.

9. The Act of February 5, 1917 (Section 19) was applied retroactively against an alien.

10. The documents mentioned above were among those introduced in the instant case as exhibits (Opinion of Assistant Commissioner—Appendix "A").

We have carefully considered the documentary evidence and the oral testimony in this case. We have reviewed the analyses of the evidence by the Presiding Inspector and the Assistant Commissioner. We find, on the basis of the evidence adduced and the foregoing court decisions, that during the period of the respondent's membership in the Communist Party of the United States of America, it advocated the overthrow of the Government of the United States by force and violence, and it distributed printed matter which so advocated.

The Assistant Commissioner found the respondent deportable on several additional grounds. We do not sustain these other grounds of deportation. We find that the evidence of record does not establish that the respondent personally believed in or advocated the overthrow of the Government of the United States by force or violence. Since the respondent has admitted membership in the Communist Party of the United States, we believe that the grounds of deportation based on affiliation are, at the very best, superfluous.

The order of deportation will be affirmed on the grounds that after entry into the United States the respondent became a member of an organization which advocated the overthrow by force and violence of the Government of the United States, and which distributed printed matter that so advocated.

ORDER: It is ordered that the appeal from the decision of the Assistant Commissioner be and the same is hereby dismissed.

SI:MJW

THOS. G. FINUCANE,
Chairman.

Warrant of Deportation

(Omitted pursuant to stipulation printed at page 984, *infra*.)

Traverse

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

[SAME TITLE]

Petitioner for his traverse to the return herein alleges:

1. Repeats and realleges each and every allegation in paragraphs 1-21 of the petition herein, verified the 1st day of July, 1949.

2. The return and annexed record is insufficient in law to justify the arrest and detention of the petitioner.

WHEREFORE, petitioner prays that the writ of habeas corpus herein be sustained and the petitioner be released.

PETER HARISIADES
Petitioner

STATE OF NEW YORK,
COUNTY OF NEW YORK, } ss.:

PETER HARISIADES, being duly sworn, deposes and says: I am the petitioner herein. I have read the foregoing traverse and the facts therein stated are true of my own knowledge; and as to the matters therein stated to be alleged on information and belief, I believe said traverse to be true.

PETER HARISIADES

Sworn to before me this
12th day of July, 1949.

CAROL KING

Notary Public, State of New York
Qualified in New York County
No. 31-2117900
Cert. Filed with N. Y. Co. Clk. and Reg. Off.
Commission Expires March 30, 1951

(Seal)

Opinion of Hon. Vincent L. Leibell

[Same Title]

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(Clarke S. Ryan, Assistant United States Attorney,
Lester Friedman, Of Counsel.)

Leibell, *D. J.*

The petitioner, Peter Harisiades, an alien, sued out a writ of habeas corpus on July 1, 1949, claiming that he had been arrested and was then illegally detained at Ellis Island, under a warrant of deportation. The warrant had been issued December 16, 1948 by the Acting Assistant Commissioner of Immigration, pursuant to an order of deportation made on that date by the Assistant Commissioner, under T. 8 U. S. C. § 137(g). The warrant recited the grounds for his deportation; among them, that he was a member of an organization (the Communist Party) which advises, advocates and teaches the overthrow of the Government of the United States by force and violence, and which circulates and distributes literature teaching and advocating that doctrine. Harisiades appealed to the Board of Immigration Appeals from the order of the Assistant Commissioner. Argument was had before the Board on April 19, 1949. The Board on May 13, 1949 affirmed the Commissioner's order on the two main grounds stated above. Harisiades was taken into custody on May 20, 1949.

The petitioner is a native of Greece. He was admitted to the United States with his father on March 7, 1916, when he was thirteen years old. In 1920 his father returned to Greece but the petitioner remained here. In 1925 he joined

the Workers Party which changed its name to the Communist Party of the U. S. A. in 1929. He was an active organization worker from 1928 to 1930. From 1931 to 1932 he was a Party organizer and was one of the division executives of the Party. He was a secretary of the Greek Bureau of the Communist Party in this country from 1933 to 1937 and was associated with its publication, "Empros," from 1933 to 1939. He was arrested a number of times in Massachusetts for "strike activities" between 1928 and 1930, and for "unemployment demonstrations" in West Virginia in 1930. Petitioner continued as a member of the Communist Party of the United States of America until October 1939, when, he claims, he was formally dropped by that Party, as a non-citizen.[1]

The deportation proceedings date back a score of years. On April 12, 1930 a warrant of arrest was issued charging Harisiades with having been found in the United States in violation of the law, on the ground that at that time he was a member of or affiliated with an organization which taught or advocated the overthrow of the Government of the United States by force or violence. The warrant was based on a sworn statement, which Harisiades had made on March 6, 1930, to the effect that he was a Section organizer of the

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1. The revised constitution of the Communist Party of the U.S.A. (Ex. 4) adopted at its Tenth National Convention in May 1938 provided:

"ARTICLE III

MEMBERSHIP

Section 1. Any person, eighteen years of age or more, regardless of race, sex, color, religious belief, or nationality, who is a citizen or who declares his intention of becoming a citizen of the United States, and whose loyalty to the working class is unquestioned, shall be eligible for membership."

But a provision of the By-Laws relating to membership stated:

"It is within the provision of Article III, Section 1 of the Constitution that the following are eligible to membership in the Communist Party:

a. Persons who, by some present unjust and undemocratic laws, are excluded from citizenship and disbarred from legally declaring their intentions of becoming citizens";

Harisiades while under arrest in New Bedford, Massachusetts, made a statement (Ex. 6) to the Inspector in Charge on March 6, 1930, in which he said that he had taken out his "first papers" at Canton, Ohio, in 1922 or 1923.

Under the above quoted provisions of the Constitution and By-Laws it does not appear that Harisiades' non-citizenship status barred him from membership in the Communist Party in the U.S.A. in 1939.

Communist Party at New Bedford, Massachusetts, that he did not believe in the Government of the United States, and that it was the purpose of his party to overthrow our form of government, although he denied that he or his Party believed in the use of force or violence to accomplish that purpose. A search was made for him in several states, but the 1930 warrant was not served. Meanwhile he had assumed various aliases.[2] In 1937 he married an American citizen. He has two children. In 1943 his alien registration record was checked and later his location was ascertained; but it was not until May 2, 1946 that the warrant of deportation was served and he was taken into custody. During the deportation proceeding that followed his arrest, he was released either on bail or on his own recognizance.

After his arrest in May 1946, the following charges were then lodged against him in the deportation proceeding:

"(1) Act of October 16, 1918, as amended—Found to have been after entry a member of the following class set forth in Section 1 of said Act: An alien who believes in, advises, advocates, or teaches the overthrow by force or violence of the Government of the United States.

(2) Act of October 16, 1918 as amended—Found to have been after entry a member of the following class set forth in Section 1 of said Act; An alien who is a member of an organization, association, society or group that believes in, advises, advocates, or teaches the overthrow by force or violence of the Government of the United States.

(3) Act of October 16, 1918 as amended—Found to have been after entry a member of the following class set forth in Section 1 of said Act: An alien who is affiliated with an organization, association, society or group that believes in, advises, advocates, or teaches the overthrow by force or violence of the Government of the United States."

2. At different times he has used the names Pete Hagelias; Panagiotis Hatnikas; Panagiotis Hadjielias; Pete Harrison.

The pertinent parts of the statute are quoted below.[3]

Hearings were held before a presiding inspector of the Bureau of Immigration and Naturalization, on October 15, 1946 and on January 30-31, 1947. On March 11, 1947 the Presiding Inspector made a report, covering 65 pages, and recommended petitioner's deportation to Greece. The report contained proposed Findings of Fact and Conclusions of Law as to deportability. The record was forwarded to the Central Office and on May 14, 1947 the attorney for Harisiades filed exceptions to the report. On August 5, 1947 the Commissioner ordered that the hearing be reopened for the proper authentication of documents already introduced, for the reception of additional evidence, and for the lodging of certain additional charges.[4]

The hearing was reopened February 18-19, 1948. Two additional charges were lodged as follows:

> "(4) The Act of October 16, 1918, as amended in that he is found to have been after entry, a member of the following class set forth in Section 1 of said Act: An alien who is a member of and affiliated

3. The statute of October 16, 1918 (40 Stat. 1012), amended June 5, 1920 (41 Stat. 1008), and further amended in June 1940 (54 Stat. 673): 8 U. S. C. § 137; which provides in part as follows:

> "Any alien who, at any time, shall be or shall have been a member of any one of the following classes shall be excluded from admission into the United States":
>
> * * *
>
> "(c) Aliens who believe in, advise, advocate, or teach, or who are members of or affiliated with any organization, association, society, or group, that believes in, advises, advocates, or teaches: (1) the overthrow by force or violence of the Government of the United States * * *
>
> "(e) Aliens who are members of or affiliated with any organization, association, society, or group, that writes, circulates, distributes, prints, publishes, or displays, or causes to be written, circulated, distributed, printed, published, or displayed, or that has in its possession for the purpose of circulation, distribution, publication, issue or display, any written or printed matter of the character described in subdivision (d)" [advising, advocating or teaching the overthrow by force or violence of the Government of the United States].
>
> "(g) Any alien who was at the time of entering, the United States, or has been at any time thereafter, a member of any one of the classes of aliens enumerated in that section, shall, upon the warrant of the Attorney General, be taken into custody and deported in the manner provided in sections (enumerated) of this title. The provisions of this section shall be applicable to the classes of aliens mentioned therein, irrespective of the time of their entry into the United States."

[The Immigration Act of February 5, 1917 is found in 39 Stat. 874.]

4. The Commissioner for proper cause at any time prior to an appeal from his order, may direct a reopening of the record of hearing. 8 CFR 150.8.

with an organization, association, society, and group that advises, advocates, and teaches the overthrow by force and violence of the Government of the United States.

(5) The Act of October 16, 1918, as amended, in that he is found to have been, after entry, a member of the following class set forth in Section I of said Act: An alien who is a member of and affiliated with an organization, association, society, and group, that writes, circulates, distributes, prints, publishes, and displays, and causes to be written, circulated, distributed, printed, published and displayed, and that has in its possession for the purpose of circulation, distribution, publication, issue, and display, written and printed matter advising, advocating and teaching the overthrow by force and violence of the Government of the United States."

The reopened hearings were continued before the same Presiding Inspector on March 9-10, 1948. He made a report of 300 pages, with proposed findings and conclusions, on June 24, 1948. It is a very complete and thorough report. The case then went to the Commissioner's office where it was considered and reviewed by the Chief Examiner, in a report dated December 16, 1948, covering 46 pages. He concluded that the government had met its burden of proof on all of the lodged charges by ample substantial evidence, and submitted Findings of Fact and Conclusions of Law.[5]

5. "FINDINGS OF FACT: Upon the basis of all the evidence presented, it is found:

(1) That the respondent is an alien, a native and citizen of Greece;

(2) That the respondent was admitted into the United States for permanent residence on March 7, 1916 at New York and has remained here since;

(3) That the respondent was an active member/affiliate in good standing of the Communist Party of the United States of America from at least 1925 to October 1939 and that during such period at least that organization believed in, advised, advocated, and taught the overthrow of the government of the United States by force and violence;

(4) That the respondent was affiliated with the Communist International from at least 1925 to October 1939, and that during such period at least that organization believed in, advised, advocated, and taught the overthrow of the government of the United States by force and violence;

(5) That the respondent was an active member/affiliate in good standing of the Communist Party of the United States of America from at

[Continued on page 880]

The Chief Examiner recommended that Harisiades be

[Continued from page 879]

least 1925 to October 1939 and that during such period at least that organization circulated and distributed, written and printed matter advising, advocating, and teaching the overthrow of the government of the United States by force and violence;

(6) That the respondent, during at least from 1925 to October 1939 believed in the overthrow of the government of the United States by force and violence, and continues to hold the same views thereon since October 1939;

(7) That during at least from 1925 to October 1939 the Communist Party of the United States of America was affiliated with the Communist International.

CONCLUSIONS OF LAW: Upon the basis of the foregoing findings of fact, it is concluded:

(1) That under the Act of October 16, 1918, as amended, the respondent is subject to deportation, in that after entry, he was a member of the following class set forth in Section 1 of said Act:

An alien who is affiliated with an organization, that believes in, advises, advocates, and teaches the overthrow of the Government of the United States by force, and violence, i.e. the Communist International;

(2) That under the Act of October 16, 1918, as amended, the respondent is subject to deportation in that after entry, he was a member of the following class set forth in Section 1 of said Act:

An alien who is a member of and affiliated with an organization, that advises, advocates, and teaches the overthrow of the Government of the United States by force and violence, i.e. the Communist Party of the United States of America;

(3) That under the Act of October 16, 1918, as amended, the respondent is subject to deportation in that after entry, he was a member of the following class set forth in Section 1 of said Act:

An alien who is a member of and affiliated with an organization, that circulates and distributes, and causes to be circulated and distributed, written and printed matter advising, advocating, and teaching the overthrow of the Government of the United States by force and violence, i.e. The Communist Party of the United States of America;

(4) That under the Act of October 16, 1918, as amended, the respondent is subject to deportation, in that after entry, he was a member of the following class set forth in Section 1 of said Act:

An alien who believes in, the overthrow of the Government of the United States by force and violence;

(5) That under the Act of October 16, 1918, as amended, the respondent is subject to deportation, in that after entry, he was a member of the following class set forth in Section 1 of said Act:

An alien who is a member of an organization, that believes in, advises, advocates, and teaches the overthrow of the Government of of the United States by force and violence, i.e. The Communist Party of the United States of America;

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deported to Greece on five charges and the Assistant Commissioner "So Ordered". On the same day, December 16, 1948, a warrant of deportation was issued which embodied those charges. Harisiades appealed.

On April 19, 1949 the Board of Immigration Appeals heard oral argument on the appeal from the Assistant Commissioner's order of December 16, 1948. The Board of Appeals filed an opinion dated May 13, 1949, from which I quote the following:

"We have carefully considered the documentary evidence and the oral testimony in this case. We

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[Continued from page 880]

(6) That the respondent is *not* subject to deportation on the ground that he has been found in the United States in violation of the Act of October 16, 1918, as amended by the Act of June 5, 1920, in that he is a member of, or affiliated with an organization, association, society, or group that believes in, advises, advocates, or teaches the overthrow by force or violence of the Government of the United States or of all forms of law;

(7) That under Section 20 of the Immigration Act of February 5, 1917, the respondent is deportable to Greece at Government expense."

6. (1) That under the Act of October 16, 1918, as amended, the respondent is subject to deportation, in that after entry, he was a member of the following class set forth in Section 1 of said Act:

An alien who is affiliated with an organization, that believes in, advises, advocates, and teaches the overthrow of the Government of the United States by force and violence;

(2) That under the Act of October 16, 1918, as amended, the respondent is subject to deportation in that after entry, he was a member of the following class set forth in Section 1 of said Act:

An alien who is a member of and affiliated with an organization, that advises, advocates, and teaches the overthrow of the Government of the United States by force and violence.

(3) That under the Act of October 16, 1918, as amended, the respondent is subject to deportation in that after entry, he was a member of the following class set forth in Section 1 of said Act:

An alien who is a member of, and affiliated with an organization, that circulates and distributes, and causes to be circulated and distributed, written and printed matter advising, advocating, and teaching the overthrow of the Government of the United States by force and violence;

(4) That under the Act of October 16, 1918, as amended, the respondent is subject to deportation, in that after entry, he was a member of the following class set forth in Section 1 of said Act:

An alien who believes in, the overthrow of the Government of the United States by force and violence;

(5) That under the Act of October 16, 1918, as amended, the respondent is subject to deportation, in that after entry, he was a member of the following class set forth in Section 1 of said Act:

An alien who is a member of an organization, that believes in, advises, advocates, and teaches the overthrow of the Government of the United States by force and violence."

have reviewed the analyses of the evidence by the Presiding Inspector and the Assistant Commissioner. We find, on the basis of the evidence adduced and the foregoing court decisions, that during the period of the respondent's membership in the Communist Party of the United States of America, it advocated the overthrow of the Government of the United States by force and violence, and it distributed printed matter which so advocated.

The Assistant Commissioner found the respondent deportable on several additional grounds. We do not sustain these other grounds of deportation. We find that the evidence of record does not establish that the respondent personally believed in or advocated the overthrow of the Government of the United States by force or violence. Since the respondent has admitted membership in the Communist Party of the United States, we believe that the grounds of deportation based on affiliation are, at the very best, superfluous.

The order of deportation will be affirmed on the grounds that after entry into the United States the respondent became a member of an organization which advocated the overthrow by force and violence of the Government of the United States, and which distributed printed matter that so advocated."

The Board of Immigration Appeals ordered "that the appeal from the decision of the Assistant Commissioner be dismissed".

At the hearings and on the appeals, from the time he was taken into custody in May 1946, Harisiades has been represented by counsel of his own choosing.

After the decision of the Board of Immigration Appeals on May 13, 1949, Harisiades was taken into custody on May 20, 1949 pursuant to the warrant of deportation dated December 16, 1948. He filed an application in this Court for review under the Administrative Procedure Act[7] which was denied by Judge Bondy on July 1st. The Judge suggested that a petition for a writ of habeas corpus was the proper remedy. A petition for a writ was filed the same day. After several adjournments it came on for a hearing before me on July 19, 1949. At that time an application

7. See *Connor* v. *Miller*, decided by the United States Court of Appeals, Second Circuit, on December 30, 1949.

for bail was made pending decision on the writ. In view of the size of the record and the time it would take to review it, and because of the length of time the matter had been pending in the Immigration Bureau during the greater part of which the alien was released on his own recognizance, I admitted the petitioner to bail.[8] The order fixing bail contained a provision that Harisiades report at regular intervals to the Immigration authorities and that he refrain from any activities that might be hostile to the best interests of the United States. Sometime thereafter counsel submitted briefs.

A number of points have been raised by petitioner's counsel but the three main contentions are (1) that the Communist Party of the United States, during the time of petitioner's membership (1925-1939), did not teach or advocate the overthrow of the Government of the United States by force or violence and did not distribute literature teaching that doctrine; (2) that the statute (8 U. S. C. § 137) is unconstitutional, as in violation of the First and Fifth Amendments of the Constitution of the United States; and (3) that the June 1940 amendment of the statute (54 Stat. 673) is, in respect to the charges against Harisiades, as *ex post facto* law and for that reason unconstitutional. The first contention raises an issue of fact; the second and third, questions of law.

In the case at bar the Presiding Inspector, the Chief Examiner and the Assistant Commissioner found that Harisiades is "an alien who believes in the overthrow of the Government of the United States by force and violence," in addition to being a member of and affiliated with an organization which advocates and teaches that doctrine and circulates literature to that effect. But the Board of Appeals held that the record did not establish that Harisiades personally believed in or advocated the overthrow of the Government of the United States by force or violence. Footnote #4 of the Board's opinion states:

"From 1931 to 1932 he was an organizer for the Communist Party and from 1933 to 1937 he served as secretary of the Greek Bureau of the Communist Party—a subdivision thereof. He served in an editorial capacity on its publication 'The Empros' from 1933 to about October 1939. His membership in the Communist Party ended in October

8. See *Pinsky* v. *Shaughnessy*, 177 F. 2d 708 (U. S. C. A. 2nd Circuit, September 30, 1949).

1939 because the Communist Party dropped non-citizens from its rolls." He was a paid organizer and secretary.

As Chief Justice Stone observed in his dissenting opinion in *Schneiderman v. United States*, 320 U. S. 118, at page 197:

> "It is possible, though not probable or normal, for one to be attached to principles diametrically opposed to those, to the dissemination of which he has given his life's best effort. But it is a normal and sensible inference which the trier of fact is free to make that his attachment is to those principles rather than to constitutional principles with which they are at war. A man can be known by the ideas he spreads as well as by the company he keeps."

Schneiderman was an organization secretary of the Communist Party in California in 1930 and later in Connecticut and in Minnesota.

Mr. Justice Murphy in the majority opinion in the *Schneiderman* case remarked:

> "At this point it is appropriate to mention what will be more fully developed later—that under our traditions beliefs are personal and not a matter of mere association, and that men in adhering to a political party or other organization notoriously do not subscribe unqualifiedly to all of its platforms or asserted principles."[9]

Mr. Justice Murphy's opinion (the majority opinion) in the *Schneiderman* case states also:

> "There is a material difference between agitation and exhortation calling for present violent action which creates a clear and present danger of public disorder or other substantive evil, and mere doctrinal justification or prediction of the use of force

9. I believe that that observation does not apply to membership in the Communist Party of the United States, which during Harisiades membership was a section of the Communist International. The 1928 Program of the Government International (Ex. 5A); the 1934 Manifesto and the Principal Resolutions of the 8th Convention of the Communist Party of the United States (Ex. 10); Stalin's 1929 speeches on the American Communist Party (Ex. 46); and the membership requirements contained in a typical membership book (Ex. 18) show how strict is the discipline exercised by the Communist Party over its members. It is more than a political party. It is an organized revolutionary group.

> under hypothetical conditions at some indefinite future time—prediction that is not calculated or intended to be presently acted upon, thus leaving opportunity for general discussion and the calm processes of thought and reason."

And the court concluded that—

> "Because of this difference we may assume that Congress intended by the general test of 'attachment' (i. e, to the principles of the constitution of the United States) in the 1906 Act, to deny naturalization to persons falling into the first category, but not to those in the second."

The majority opinion in the *Schneiderman* case held also, that:

> "Where two interpretations of an organization's program are possible, the one reprehensible and a bar to naturalization and the other permissible, a court in a *denaturalization proceeding*, assuming that it can reexamine a finding of attachment upon a charge of illegal procurement, is not justified in cancelling a certificate of citizenship by imputing the reprehensible interpretation to a member of the organization in the absence of overt acts indicating that such was his interpretation."

In the case at bar Harisiades testified that he did not believe in the overthrow of the Government of the United States by force or violence.[10] The Presiding Inspector who saw him testify concluded otherwise. The Presiding Inspector, the Chief Examiner, the Acting Commissioner and the Board of Appeals all agreed that the Communist Party during the long period of Harisiades membership, advocated and taught the overthrow of the Government of the United States by force and violence and distributed literature to that effect. Harisiades was more than an ordinary member of the Party. He had advanced from the rank and file, as Schneiderman had. But, if the Supreme Court did not consider all of Schneiderman's activi-

10. In 1930 he had stated (Ex. 6) that although he did not believe in the government of the United States as then constituted, and although his party believed in the overthrow of the government, they did not believe in force and violence.

ties on behalf of the Communist Party as sufficient to justify the conclusion that Schneiderman believed in the overthrow of the Government of the United States by force and violence, the Board of Immigration Appeals could reach a like conclusion as to Harisiades. If I were free to do so, I would accept the view expressed in the Paragraph quoted above from the dissenting opinion of Mr. Justice Stone. It seems to me to be more logical.

Petitioner's counsel states that "the only question of fact in the case is whether, during Harisiades' membership (1925-1939), the Communist Party of the United States of America believed in or advocated the violent overthrow of this Government, and whether it distributed literature containing such advocacy."

In *Bridges* v. *Wixon*, 326 U. S. 135 (decided June 18, 1945) the majority opinion written by Mr. Justice Douglas held that Bridges had not had a fair hearing on the issues of his membership in the Communist Party because certain evidence (statements allegedly made to an investigating officer by a witness who was called by the government and denied making some parts of the statements) was improperly received, and where but for that evidence it was wholly speculative whether the requisite finding would have been made. The majority of the court held that the use of the ex parte statements was highly prejudicial. The majority also held that Bridges had been ordered deported "on a misconstruction of the term 'affiliation' as used in the statute." In the case at bar Harisiades admitted his membership in the Communist Party of the U. S. A. and the Board of Immigration Appeals considered the charge of "affiliation" as superfluous.

The majority opinion in *Bridges* v. *Wixon*, *supra*, a deportation case, did not discuss the evidence on the question of whether the Communist Party of the U. S. A. advocated the overthrow of the Government by force or violence. But Mr. Justice Murphy in a concurring opinion stated:

> "Proof that the Communist Party advocates the theoretical or ultimate overthrow of the Government by force was demonstrated by resort to some rather ancient party documents, certain other general Communist literature and oral corroborating testimony of Government witnesses. Not the slightest evidence was introduced to show that either Bridges

> or the Communist Party seriously and imminently threatens to uproot the Government by force or violence."

Chief Justice Stone in a dissenting opinion (in which Mr. Justice Roberts and Mr. Justice Frankfurther joined) stated:

> "As we are of opinion that the finding of Bridges' membership in the Communist Party, standing alone, supports the deportation order, and that the finding is supported by evidence, we deem it unnecessary to consider other contentions to which the Court's opinion is principally directed."

The dissenting opinion did not discuss the evidence relating to the teachings of the Communist Party.

However, Chief Justice Stone had discussed evidence on that question in a dissenting opinion (in which Mr. Justice Roberts and Mr. Justice Frankfurter joined) in *Schneiderman* v. *United States*, 320 U. S. 118 (decided June 21, 1943), a denaturalization case, and had expressed the opinion that the evidence in that case was such that—

> "On the record before us it would be difficult for a trial judge to conclude that petitioner was not well aware that he was a member of and aiding a party which taught and advocated the overthrow of the Government of the United States by force and violence."

The period under consideration in that case was from 1922 to 1927. Schneiderman was naturalized in 1927.

In the majority opinion, written by Mr. Justice Murphy in the *Schneiderman* case, the Court held:

> "We do not say that a reasonable man could not possibly have found, as the district court did, that the Communist Party in 1927 actively urged the overthrow of the Government by force and violence. But that is not the issue here."

The Court held that the Government failed, in the *denaturalization* action against Schneiderman, to prove any lack of attachment on his part to the principles of the Constitution of the United States, "by clear, unequivocal and convincing" evidence. Mr. Justice Murphy also stated:

"For some time the question whether advocacy of governmental overthrow by force and violence is a principle of the Communist Party of the United States has perplexed courts, administrators, legislators, and students. On varying records in deportation proceedings some courts have held that administrative findings that the Party did so advocate were not so wanting in evidential support as to amount to a denial of due process, (29) others have held to the contrary on different records, (30) and some seem to have taken the position that they will judicially notice that force and violence is a Party principle (31). This Court has never passed upon the question whether the Party does so advocate, and it is unnecessary for us to do so now."[11]

"29. *In re Saderquist*, 11 F. Supp. 525; *Skeffington* v. *Katzeff*, 277 F. 129; *United States* v. *Curran*, 11 F. 2d 683; *Kenmotsu* v. *Nagle*, 44 F. 2d 953; *Sormunen* v. *Nagle*, 59 F. 2d 398; *Branch* v. *Cahill*, 88 F. 2d 545; *Ex parte Villarino*, 50 F. 2d 582; *Kjar* v. *Doak*, 61 F. 2d 566; *Berkman* v. *Tillinghast*, 58 F. 2d 621; *United States* v. *Smith*, 2 F. 2d 90; *United States* v. *Wallis*, 268 Fed. 413.

30. *Strecker* v. *Kassler*, 95 F. 2d 976, 96 F. 2d 1020, affirmed on other grounds, 307 U. S. 22; *Ex parte Fierstein*, 41 F. 2d 53; *Collyer* v. *Skeffington*, 265 F. 17, reversed *sub nom. Skeffington* v. *Katzeff*, 277 F. 129.

31. *United States ex rel. Yokinen* v. *Commissioner*, 57 F. 2d 707; *United States* v. *Perkins*, 79 F. 2d 533; *United States ex rel. Fernandez* v. *Commissioner*, 65 F. 2d 593; *Ungar* v. *Seaman*, 4 F. 2d 80; *Ex parte Jurgans*, 17 F. 2d 507; *United States ex rel. Fortueller* v. *Commissioner*, 14 F. Supp. 484; *Murdock* v. *Clark*, 53 F. 2d 155; *Wolck* v. *Weedin*, 58 F. 2d 928."

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11. A jury, in a criminal prosecution in this Court against eleven of the top officers of the Communist Party of the United States, recently (October 1949) convicted all of the defendants of having conspired to advocate and teach the duty and necessity of overthrowing and destroying the government of the United States by force and violence (54 Stat. 671). Under the law, the proof required for their conviction on the criminal charge was that their guilt be established beyond a reasonable doubt.

However, the majority opinion in the *Schneiderman* case did discuss some of the documentary evidence on that issue —the "Communist Manifesto" of Marx and Engles proclaimed in 1848; "State and Revolution" by Lenin, written in August 1917; the "Statutes, Theses and Conditions of Admission to the Communist International", adopted August, 1930, printed in 1923; the "Theory and Practice of Leninism" written by Stalin and printed in 1924 or 1925. The court added: "The Government also sets forth excerpts from other documents which are entitled to little weight because they were published after the critical period", i. e. after 1927 when Schneiderman received his certificate of citizenship. Those other documents were: (a) Program of the Communist International adopted in 1928 and published by the Workers Library Publishers, Inc. in 1929; (b) Programme of the Young Communist International, published in 1929; (c) "Why Communism", written by Olgin and published first in 1933 by the Workers Library Publishers. The majority opinion quoted excerpts from the documents published prior to 1927 and styled them "bombastic excerpts", and stated:

> "A tenable conclusion from the foregoing is that the Party in 1927 desired to achieve its purpose by peaceful and democratic means, and as a theoretical matter justified the use of force and violence only as a method of preventing an attempted forcible counter-overthrow once the Party had obtained control in a peaceful manner, or as a method of last resort to enforce the majority will if at some indefinite future time because of peculiar circumstances constitutional or peaceful channels were not longer open.[12]

12. The Presiding Inspector, in his opinion in the *Harisiades* case, takes issue with the interpretation given in the majority opinion to certain excerpts from the writings of Lenin and Stalin, which are referred to in footnotes (26), (50) and (51) of the majority opinion in the *Schneiderman* case. Indeed Stalin's interpretation of Leninism appears to be the direct opposite of that given by the United States Supreme Court as "a tenable conclusion." In his "Foundations of Leninism" (Ex. 22 at p. 56) Stalin states:

> "In other words, the law of violent proletarian revolution, the law of the smashing of the bourgeois state machine as a preliminary condition for such a revolution, is an inevitable law of the revolutionary movement in the imperialist countries of the world.
>
> Of course, in the remote future, if the proletariat is victorious in the most important capitalist countries, and if the present capitalist encirclement is replaced by a socialist encirclement, a 'peaceful' path

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The majority opinion stated:

> "We do not decide what interpretation of the Party's attitude toward force and violence is the most probable on the basis of the present record."

Concerning that question Chief Justice Stone, in his dissent, stated (p. 190):

> "From the beginning, and during all times relevant to this inquiry, there is evidence that the Communist Party organizations advocated the overthrow of capitalistic governments by revolution to be accomplished, if need be, by force of arms. We need not stop to consider the much discussed question whether this meant more than that force was to be used if established governments should be so misguided as to refuse to make themselves over into proletarian dictatorships by amendment of their governmental structures, or should have the effrontery to defend themselves from lawless or subversive attacks. For in any case the end contemplated was the overthrow of government, and the measures advocated were force and violence."

Chief Justice Stone, in an appendix annexed to his dissenting opinion in the *Schneiderman* case, sets forth a number of excerpts from "Statutes, Theses and Conditions of Admission to the Communist International" (adopted by the Second Congress of the Communist International, July-August 1929) and also excerpts from "State and Revolution" by Lenin. Chief Justice Stone also quoted from the "Theses" and the "Communist Manifesto" and from Stalin's "The Theory and Practice of Leninism," in the body of his opinion. Referring to Lenin's book, "State and Revolution," Chief Justice Stone stated: "The Party

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[Continued from page 889]

of development is quite possible for certain capitalist countries, whose capitalists, in view of the 'unfavourable' international situation, will consider it expedient 'voluntarily' to make substantial concessions to the proletariat. But this supposition applies only to a remote and possible future. With regard to the immediate future, there is no ground whatsoever for this supposition.

Therefore, Lenin is right in saying:

'The proletarian revolution is impossible without the forcible destruction of the bourgeois state machine and the substitution for it of a *new one* . . .' (Selected Works, Vol. VII, p. 124)."

teachings in this and other publications were that revolution by force of arms was a universal principle and consequently one which embraced the United States,"[12a] and obviously was intended to do so when taught in Communistic classes in the United States." Stalin's book on "The Theory and Practice of Leninism" was also quoted to support that conclusion.

The same questions were considered by the Presiding Inspector in the case at bar (the Harisiades case) on a record which includes eleven years of Communist Party activities, and some pronouncements and publications that were not before the high court in the Schneiderman case. The period involved in the Schneiderman case was 1922 to 1927; in the Bridges case, 1933 to 1937. The period in the Harisiades case covers 1925 to 1939. The Schneiderman opinion was written in June 1943; the Bridges v. Wixon opinion in June 1945.

The Presiding Inspector in the case at bar discussed the documentary evidence relating to the advocacy by the Communist Party of the use of force and violence in the proletariat revolution, for which the members of the Party were to be prepared to act as the vanguard of the attack. It is not necessary to go back to any "ancient documents" to show that in our time this has been the basic doctrine of the Communist International and the Communist Party of the U. S. A. A proletariat revolution employing force and violence is advocated in Lenin's "State and Revolution," written in 1917 (Ex. 20). The theme is again referred to in Lenin's "Left Wing Communism, An Infantile Disorder," 1920, (Ex. 21); and expounded in the "Foundations of Leninism" by Stalin, written in 1924, (Ex. 22). The Program of the Communist International, adopted in 1928, (Ex. 5A) stress it. "The Struggle Against Imperialist War and the Tasks of the Communists," set forth in Resolutions of the Sixth World Congress of the Communist International (1928) (Ex. 27); Stalin's "Problems of Leninism," 1926 (Ex. 23); Thesis of the Thirteenth Plenum of the Executive Committee of the Communist International (1933) published in 1934 (Ex. 11); Manifesto and Principal Resolutions adopted by the Eighth Convention of the Communist Party of the U. S. A. held April, 1934 (Ex. 10); Resolutions of the Seventh Communist International,

12a. See the quotation from "State and Revolution" in the Appendix to Chief Justice Stone's opinion.

August 1935 (Ex. 47)—all these documents are the modern exposition of the Communist doctrine of violent revolution, developed a century ago by Marx and Engels, and restated by Lenin and Stalin with detailed instructions as to their modern application. Bluntly they proclaim the basic communistic doctrine of the violent overthrow of bourgeois "capitalist" governments (including the United States of America) and the seizure of power by force. If the words used in these pronouncements of the Communist International and of Lenin and Stalin, adopted and circulated by the Communist Party of the U. S. A. are given their plain every-day meaning, they state the Communist doctrine of the overthrow of government by force and violence as the way to power, so clearly that it cannot be obscured by calling it a defensive measure only. Chief Justice Stone exposed as ridiculous that palliation of the Communist doctrine of violent revolution.

Karl Marx stated in his Manifestos (Ex. 19) "The Communists disdain to conceal their views and aims. They openly declare that their ends can be attained only by the forcible overthrow of all existing social conditions." Lenin in his "State and Revolution" put it this way: "the liberation of the oppressed class is impossible not only without a violent revolution, but also without the destruction of the apparatus of state power, which was created by the ruling class" (Ex. 20 at p. 9). And "The necessity of systematically fostering among the masses this and just this point of view about violent revolution lies at the root of the whole of Marx's and Engel's teaching. * * * The replacement of the bourgeois by the proletarian state is impossible without a violent revolution" (Ex. 20 at p. 20). And finally—"Opposition and general political struggle are beside the point; we are concerned with the revolution. And revolution consists in the proletariat's destroying the 'administration apparatus' and the whole state machinery, and replacing it by a new one consisting of the armed workers" (Ex. 20 at p. 96).

In his book entitled "Left Wing Communism an Infantile Disorder," Lenin refers frequently to the lessons to be drawn from the 1905 and 1917 Russian revolutions. "There is a strike movement unprecedented anywhere in the world for its extent and acuteness. The economic strike grows into a political strike, and the latter into insurrection. The relations between the proletariat as the leader and the vacillating, unstable peasantry, as the led, are

tested in practice. The Soviet form of organization is born in the spontaneous development of the struggle". (Ex. 21, pp. 12-13). And "At that time (1905) the boycott (of the Duma) proved correct, not because non-participation in the reactionary parliaments is correct in general, but because we correctly estimated the objective situation that was leading to the rapid transformation of mass strikes into a political strike, and then into a revolutionary strike, and then into insurrection" (Ex. 21 at p. 20). Lenin later points out how the presence of a Soviet opposition within a bourgeois parliament can be used, and asserts that the experience of many revolutions show "how particularly useful during a revolution is the combination of mass action outside the reactionary parliament with an opposition sympathetic to (or, better still, directly supporting) the revolution inside this parliament" (Ex. 21 at p. 45). The following tactical advice is given by Lenin to Communist leaders in bourgeois democracies who might favor a policy of "No compromise, no manoeuvers":

> "To tie one's hands beforehand, openly to tell the enemy, who is at present better armed than we are, whether we shall fight him, and when, is stupidity and not revolutionariness. To accept battle at a time when it is obviously advantageous to the enemy and not to us is a crime; and absolutely worthless are those political leaders of the revolutionary class who are unable 'to tack, manoeuvre and compromise' in order to avoid an obviously disadvantageous battle" (Ex. 21, p. 59).

This last quotation seems to me to expose the fallacy and delusion of the so-called "clear and present danger" rule in interpreting and applying the language of T. 8 U. S. C. § 137 and similar statutes, and the real danger to our national security that lurks in a judicial interpretation of the writings of leading Communists and of the programs and resolutions of the Party conventions, as "mere doctrinal justification or prediction of the use of force under hypothetical conditions at some indefinite future time".

Stalin, in his "Foundations of Leninism" (Ex. 22) restates the principles of Leninism. He writes in his Introduction that Leninism is not just the application of Marxism to the peculiar situation in Russia. * * * "We know, however, that Leninism is not merely a Russian, but

an international phenomenon rooted in the whole of the international development." * * * "The whole truth about Leninism is that Leninism not only restored Marxism, but also took a step forward, developing Marxism further under the new conditions of capitalism and of the class struggle of the proletariat" (Ex. 22, pp. 9-10). He declares that Russian Communists have gone beyond "the narrow national bounds of the Russian Revolution" * * * "to transfer the struggle to the international arena" * * * and "finally overthrow capitalism in their own country and to forge a new fighting weapon for the proletariat—the theory and tactics of the proletarian revolution—in order to facilitate the task of overthrowing capitalism for the proletarians of all countries" (Ex. 22, pp. 17 and 18). Stalin quotes Lenin that the victorious proletariat, wherever established, should do "the utmost possible in one country for the development, support and awaking of the revolution in all countries" (Ex. 22, p. 46). Just as after the success of the October 1917 revolution in Russia, it was their objective "to consolidate the dictatorship of the proletariat in one country, using it as a base for the overthrow of imperialism in all countries" (Ex. 22, p. 91). Stalin stated that "capitalism has evolved into imperialism, and imperialism to a world system of financial enslavement and colonial oppression of the vast majority of the population of the earth by a handful of 'advanced' countries"; a system which he believed "as a whole is already ripe for revolution"; and since the "separate national fronts have become links in a single chain called the world front of imperialism" they "must be opposed by a common front of the revolutionary movement in all countries" (Ex. 22, pp. 35-36).

Stalin, like Lenin, condemned the so-called "opportunists" of the Second International (1899) who sought to bring about reforms through parliamentary action using that as the method to accomplish their purposes. Lenin and Stalin believed in the doctrine of the Third International (1919), that a proletarian revolution employing force was the way to power. Stalin wrote: "Does not the history of the revolutionary movement show that the parliamentary struggle is only a school for and an aid in organizing the extra-parliamentary struggle of the proletariat, that under capitalism the fundamental problems of the working-class movement are solved by force, by

the direct struggle of the proletarian masses, their general strike, their insurrection?" (Ex. 22 at p. 24). And, "The dictatorship of the proletariat cannot arise as the result of the peaceful development of bourgeois society and of bourgeois democracy; it can arise only as the result of the smashing of the bourgeois state machine, the bourgeois army, the bourgeois bureaucratic machine, the bourgeois police" (Ex. 22, p. 54). It would seem that force and violence would be needed to smash an army or the police.

In his "Foundations of Leninism" (Ex. 22) Stalin shows that the dictatorship of the proletariat will become "the foundation of the proletarian state power," and that "This new form of organization of the proletariats is the Soviets." "The Soviet power is the amalgamation and formation of the local Soviets into one common state organization, into the state organization of the proletariat as the vanguard of the oppressed and exploited masses and as the ruling class—their amalgamation into the republic of Soviets" (Ex. 22, p. 58). "The republic of Soviets is thus the political form, so long sought and finally discovered, within the framework of which the economic emancipation of the proletariat, the complete victory of socialism, is to be accomplished" (Ex. 22, p. 60).

The "Problems of Leninism" (Ex. 23) is a restatement of the principles of Leninism, with some of Stalin's arguments to show that nothing less than a violent revolution will overthrow the capitalist bourgeois governments and establish the dictatorship of the proletariat. The dictatorship of the proletariat is to be the achieved result of the revolution.

The proletariat dictatorship would be controlled by the Communist Party as described in detail in Lenin's "Left Wing Communism" (Ex. 21 at p. 31) in which he stated:

> "The correlation, leaders-party-class-masses, as well as the relation to the dictatorship of the proletariat and its party to the trade unions, now present themselves concretely in Russia in the following form: the dictatorship is exercised by the proletariat, organized in the Soviets; the proletariat is led by the Communist Party (Bolsheviks) which, according to the data of the last Party Congress (April 1920) has a membership of 611,000. * * * The Party, which holds annual congresses (the last on the basis of one delegate for each 1000 members) is directed by

a Central Committee of nineteen elected at the Congress, while the current work in Moscow has to be carried on by still smaller bodies, viz. the so-called 'Orgburo' (Organization Bureau) and 'Politburo' (Political Bureau), which are elected at plenary meetings of the Central Committee, five members of the Central Committee to each bureau. This, then, looks like a real 'oligarchy'. Not a single important political or organizational question is decided by any state institution in our republic, without the guiding instructions of the Central Committee of the Party."

"In its work, the Party relies directly on the trade unions * * * which are formally non-party. Actually, all the directing bodies of the vast majority of the unions, and primarily, of course, of the all-Russian general trade union centre or bureau (the All-Russian Central Trade Union Council) consist of Communists and carry out all the instructions of the Party. Thus, on the whole, we have a formally non-Communist, flexible and relatively wide and very powerful proletarian apparatus, by means of which the Party is closely linked up with the class and with the masses, and by means of which, under the leadership of the Party, the dictatorship of the class is effected. Without close contact with the trade unions, without their hearty support and self-sacrificing work, not only in economic but also in military affairs, it would, of course, have been impossible for us to govern the country and to maintain the dictatorship for two months, let alone two years * * *" (Ex. 22, p. 32).

"Then, of course, all the work of the Party is carried on through the Soviets, which embrace the toiling masses irrespective of occupation. The * * * (county) * * * congresses of Soviets are democratic institutions the like of which even the best of the democratic republics of the bourgeois world has never known; and through these congresses (whose proceedings the Party endeavors to follow with the closest attention) as well as by constantly appointing class-conscious workers to all sorts of posts in the rural districts, the role of the proletariat as leader of the peasantry is exercised, the dictatorship of the urban proletariat is realized, and a systematic strug-

gle against the rich, bourgeois, exploiting, and profiteering peasantry is waged" (Ex. 22, p. 33).

Stalin in his "Problems of Leninism" (Ex. 23) also describes how the Soviet system operates under the control of the Communist Party. He says:

> "Lastly, there is the Party of the proletariat, its vanguard. The party's strength lies in the fact that it draws into its ranks all the best elements of the proletariat from all the mass organizations of the proletariat. Its function is to combine the work of all the mass organizations of the proletariat, without exception, and to guide their activities towards a single goal, that of emancipation of the proletariat. And it is absolutely essential to unite and guide them towards one goal, for otherwise the unity of the struggle of the proletariat and the leadership of the proletarian masses in their fight for power and for the building of socialism is impossible. Only the vanguard of the proletariat, its Party, is capable of combining and directing the work of the mass organizations of the proletariat. Only the Party of the proletariat, only the Party of the Communists, is capable of fulfilling this role of chief leader in the system of the dictatorship of the proletariat" (pp. 31-32).
>
> * * * *
>
> "Without the Party as the main leading force, a dictatorship of the proletariat at all durable and firm is impossible * * *"
>
> "* * * The Party realizes the dictatorship of the proletariat. It does so, however, not directly, but with the help of the trade unions and through the soviets and their ramifications. Without these 'belts' anything like a firm dictatorship would be impossible" (pp. 33-34).
>
> "Here in the Soviet Union, in the land of the dictatorship of the proletariat, the fact that not a single important political or organizational question is decided by our Soviet and other mass organizations without directions from the Party must be regarded as the highest expression of the leading role of the Party. * * *" (p. 34).

Thus the Communist Party in a capitalist country is designed (1) to be the instrument of revolution in the violent overthrow of the bourgeois government, (2) the instrument of control in the dictatorship of the proletariat which is to follow the revolution, and (3) the all permeating authority in the establishment and functioning of the Soviet organizations to be united in a Soviet Union. Even though the Communist Party may be a very minor group when considered as a political party in a national election, their members constitute a well organized group subject to iron discipline, taking their party line from abroad, with a program for the violent overthrow of so-called capitalist forms of government at the opportune moment.

One of the most important documents in the proof offered in the Harisiades deportation proceeding was the "Program" of the Communist International, adopted at its international convention in 1928 (Ex. 5A).[13] It was to apply to all "sections" of the Party including that in the United States. "Sections" of the Communist International were the same as national communist parties, such as the Communist Party of the U. S. A. For nations such as the United States where a "highly centralized production" exists, "the fundamental political demand of the program is direct transition to the dictatorship of the proletariat" (p. 54). That this transition is to be accomplished by a proletariat revolution using force and violence is clear from the writings of Lenin and Stalin. There are, however, parts of the world where production is not so highly developed and the proletariat not so numerous proportionally, where the "peasants" are in greater numbers; and some parts of the world are only in a so-called colonial state of development. But the Program is intended for a world wide revolution and so the Program explains how these colonial and semi-colonial and dependent countries will also be drawn into "the growing Federation of Soviet Republics" (pp. 55-58).

The Programme of the Communist International (published in 1929 (Ex. 5A) advocates disloyalty to the Party member's own "bourgeois imperialistic government", and, in the event of a conflict with the U. S. S. R., a civil war against the "imperialist government" by Party members to aid the U. S. S. R. The following quotations from the Programme contain explicit instructions in that regard:

13. See *Kjar* v. *Doak*, 61 F. 2d 566 (C. C. A. 7th 1932; *In re Sanderquist*, 11 F. Supp. 525, affd. 83 F. 2nd 890.

"Being the land of the dictatorship of the proletariat and of Socialist construction, the land of great working class achievements, of the union of the workers with the peasants, and of a new culture marching under the banner of Marxism—the U. S. S. R. inevitably becomes the base of the world movement of all oppressed classes, the centre of international revolution, the greatest factor in world history. In the U. S. S. R., the world proletariat for the first time acquires a country that is really its own, and for the colonial movements the U. S. S. R. becomes a powerful centre of attraction" (p. 63).

* * *

"In view of the fact that the U. S. S. R. is the only fatherland of the international proletariat, the principal bulwark of its achievements and the most important factor for its international emancipation, the international proletariat must on its part facilitate the success of the work of Socialist construction in the U. S. S. R. and defend her against the attacks of the capitalist powers by all the means in its power.

'The world political situation has made the dictatorship of the proletariat an immediate issue, and all the events of world politics are inevitably concentrating around one central point, namely, the struggle of the world bourgeoisie against the Soviet Russian Republic, which must inevitably group around itself the Soviet movements of the advanced workers of all countries on the one hand, and all the national liberation movements of the colonial and oppressed nationalists on the other' (Lenin).

In the event of the imperialist States declaring war upon and attacking the U. S. S. R., the international proletariat must retaliate by organizing bold and determined mass action and struggling for the overthrow of the imperialist governments with the slogan of: Dictatorship of the proletariat and alliance with the U. S. S. R." (page 65).

* * *

"The successful struggle of the Communist International for the dictatorship of the proletariat presupposes the existence in every country of a compact Communist Party, hardened in the struggle, disciplined, centralized, and closely linked up with the masses" (page 75).

* * *

"The Communist Parties in *imperialist countries*, while supporting the struggle proceeding in the colonies, must carry on a campaign in their own respective countries for the withdrawal of imperialist troops, conduct propaganda in the army and navy in defence of the oppressed countries fighting for their liberation, mobilize the masses to refuse to transport troops and munitions and, in connection with this, to organize strikes and other forms of mass protest, etc.

The Communist International must devote itself especially to systematic preparation for the struggle against the danger of *imperialist wars*. Ruthless exposure of social chauvinism, of social imperialism and of pacifist phrasemongering intended to camouflage the imperialist plans of the bourgeoisie; propaganda in favor of the principal slogans of the Communist International; everyday organizational work in connection with this, in the course of which work legal methods must unfailingly be combined with illegal methods; organized work in the army and navy—such must be the activity of the Communist Parties in this connection. The fundamental slogans of the Communist International in this connection must be the following: Convert imperialist war into civil war; defeat the 'home' imperialist government; defend the U.S.S.R. and the colonies by every possible means in the event of imperialist war against them. It is the bounden duty of all Sections of the Communist International, and of every one of its members, to carry on propaganda for these slogans, to expose the 'socialistic' sophisms and the 'socialist' camouflage of the League of Nations and constantly to keep to the front the experiences of the war of 1914-1918" (p. 83).

(This same Communist doctrine of the defense of the Soviet Union against the "imperialists" and the tactics to be pursued in the event that such a war is imminent or actually underway is set forth in great detail in the Resolution of the Sixth World Congress of the Communist International (1929) in relation to "The Struggle against imperialist war and the Task of the Communists" (Ex. 27, pp. 29 to 33). That part of the resolution relating to "The Proletariats" Attitude Towards Armies in Imperialist States" describing the means to be employed to destroy discipline, "mobilize them for the fight against the officers and the bourgeois" and "disintegrate" the armies is found at pages 40 to 41.)

The Programme (Ex. 5A) also sets forth a "line of tactics" to be followed in carrying through an armed insurrection within the member's imperialistic government.

> "In determining its line of *tactics*, each Communist Party must take into account the concrete internal and external situation, the correlation of class forces, the degree of stability and strength of the bourgeoisie, the degree of preparedness of the proletariat, the position taken up by the various intermediary strata in its country etc. The Party determines its slogans and methods of struggle in accordance with these circumstances, with the view to organizing and mobilizing the masses on the broadest possible scale and on the highest possible level of this struggle.
>
> When a revolutionary situation is developing, the Party advances certain transitional slogans and partial demands corresponding to the concrete situation; but these demands and slogans must be bent to the revolutionary aim of capturing power and of overthrowing bourgeois capitalist society. The Party must neither stand aloof from the daily needs and struggles of the working class nor confine its activities exclusively to them. The task of the Party is to utilize these minor everyday needs as a *starting point* from which to lead the working class to the *revolutionary struggle for power.*
>
> When the revolutionary tide is rising, when the ruling classes are disorganized, the masses are in a state of revolutionary ferment, the intermediary strata are inclining towards the proletariat and the

masses are ready for action and for sacrifice, the Party of the proletariat is confronted with the task of leading the masses to a direct attack upon the bourgeois State. This it does by carrying on propaganda in favor of increasingly radical transitional slogans (for Soviets, workers' control of industry, for peasant committees for the seizure of the big landed properties, for disarming the bourgeoisie and arming the proletariat, etc.) and by organizing mass action, upon which all branches of Party agitation and propaganda, including parliamentary activity, must be concentrated. This mass action includes: a combination of strikes and demonstrations; a combination of strikes and armed demonstrations and finally, the general strike cojointly with armed insurrection against the state power of the bourgeoisie. The latter form of struggle, which is the supreme form, must be conducted according to the rules of war; it presupposes a plan of campaign, offensive fighting operations and unbounded devotion and heroism on the part of the proletariat. An absolutely essential condition precedent for this form of action is the organization of the broad masses into militant units, which, by their very form, embrace and set into action the largest possible numbers of toilers (Councils of Workers' Deputies, Soldiers' Councils, etc.), and intensified revolutionary work in the army and the navy" (pp. 79-80).

In line with that part of the Programme of the Communist International (quoted above from pp. 63, 65, 75, 79, 80 and 83 of Ex. 5A) the Thesis of the Thirteenth Plenum of the Executive Committee of the Communist International (as printed in the "Communist", December 1933) (Ex. 11), states:

"In fighting *against war*, the Communists must prepare even now for the transformation of the imperialist war into civil war, concentrate their forces in each country, at the *vital parts of the war machine* of imperialism.

In addition to increased agitation, the Communist Parties must by all means in their power ensure the practical organization of *mass action* (increasing the work among the railwaymen, seamen and harbor

workers, preventing the shipping of arms and troops, hindering the execution of orders for belligerent countries, organizing demonstrations against military maneuvers, etc.) and must *intensify political educational work in the army and in the navy.*

The Thirteenth Plenum of the E. C. C. I. calls upon all the workers and the toilers of the world self-sacrificingly to defend the U. S. S. R. against the counter-revolutionary conspiracy of the imperialists, and to defend the Chinese revolution and its Soviet power from imperialist intervention" (p. 140).

As to preparation for the contest, the Thirteenth Plenum (Ex. 11) gave this advice:

"The Thirteenth Plenum of the E. C. C. I. sets before all Communist Parties as most important tasks the carrying out of regular and constant checkups on the strengthening of their ranks, of preparing to go underground, of tightening up the discipline and fighting *fitness* of every Party organization and of every member of the Party.

The whole situation demands that the Communist Parties prepare in good time *cadres* for underground work, that they seriously tackle the question of combatting provocateurs, that they combine the methods of strict secrecy, with securing the schematic structure and work of the underground organization.

Only the concentration of all the efforts of the Party organizations on forming underground factory nuclei and intensifying the work of the Communist factions in all of the mass organizations and ensure contacts with the masses and also the maximum of secrecy and efficiency.

In carrying out these tasks, the Communists must utilize all legal possibilities to develop mass work, and to link up legal and illegal work."

In the May, 1934 isue of the "Communist" (the monthly organ of the Communist Party of the U. S. A.), there is an article (Ex. 10) on "The Eighth Convention of Our Party" (The Communist Party of the U. S. A.) from which the following is quoted:

"In December of last year, the Thirteenth Plenum of the E. C. C. I. declared that the general crisis of world capitalism had developed to a phase at which the objective conditions for a revolutionary crisis were fast maturing.

In endorsing the E. C. C. I. Thesis, the Eighth Convention of our Party was guided by the recognition that the acute problem, the task underlying all tasks, which confronts it today is the development of the subjective factors for the revolutionary situation. For, the downfall of capitalism does not come about through automatic collapse; it is brought about through revolutionary overthrow by the proletariat at the culminating point of its struggle. The revolution is the achievement of the revolutionary class. By recognizing the development of the objective conditions favorable for a revolutionary crisis and by acting upon them, systematically, decisively, with a revolutionary will, the proletariat speeds the moment of capitalism's downfall. Concretely then, the Party's task is the preparation of the working class, through day-to-day struggle, for the practical work of revolution, for its historic rule of assuming dictatorship" (p. 427).

The Seventh World Congress of the Communist International was held in Moscow in July and August 1935. A number of "Resolutions" were adopted (Ex. 47). A resolution based on a report of Georgi Dimitroff and adopted August 20, 1935 dealt with "The Offensive of Fascisms and the Task of the Communist International in the Fight for the Unity of the Working Class against Fascism". A subdivision of that resolution discussed the strengthening of the Communist Parties and a united front for the working class. It stated:

"The Congress emphasizes with particular stress that only the further all-round consolidation of the Communist Parties themselves, the development of their initiative, the carryout of a policy based on Marxist-Leninist principles, and the application of correct flexible tactics, which take into account the concrete situation and the alignment of class forces, can ensure the mobilization of the widest masses of

toilers for the united struggle against fascism, against capitalism" (p. 36).

* * *

"The struggle for the establishment of the united front, the unity of action of the working class, gives rise to the necessity that the Social-Democratic workers be convinced by object lessons of the correctness of the Communist policy and the incorrectness of the reformist policy, and charges every Communist Party to wage an irreconcilable struggle against any tendency to gloss over the differences in principles between Communism and reformism, against weakening the criticism of Social-Democracy as the ideology and practice of class collaboration with the bourgeoisie, against the illusion that it is possible to bring about socialism by peaceful, legal methods, against any reliance on automatism or spontaneity, whether in the liquidation of fascism or in the realization of the united front, against belittling the role of the Party and against the slightest vacillation at the moment of decisive action" (p. 37).

"Holding that the interests of the class struggle of the proletariat and the success of the proletarian revolution make it imperative that a single mass political party of the working class exist in every country, the Congress sets the Communist Parties the task of taking the initiative in bringing about this unity, relying on the growing desire of the workers to unite the Social-Democratic Parties or individual organizations with the Communist Parties. At the same time it must be explained to the workers without fail that such unity is possible only under certain conditions; under the condition of complete independence from the bourgeoisie and the complete severance of the bloc between Social-Democracy and the bourgeoisie, under the condition that unity of action be first brought about, that the necessity of the revolutionary overthrow of the rule of the bourgeoise and the establishment of the dictatorship of the proletariat in the form of Soviets be recognized, that support of one's own bourgeoisie in imperialist war be rejected, and that the party be constructed on the basis of democratic centralism which ensures

unity of will and action and has been tested by the experience of the Russian Bolsheviks" (p. 37).

* * *

"The establishment of the united front of the working class is the decisive link in the preparation of the toilers for the forthcoming great battles of the second round of proletarian revolution. Only the welding of the proletariat into a single mass political army will ensure its victory in the struggle against fascism and the power of capital, for the dictatorship of the proletariat and the power of the Soviets.

"The victory of revolution never comes by itself. It has to be prepared for and won. And only a strong proletarian revolutionary party can prepare for and win victory (Stalin)". (p. 39).

The Communist Party member in every country was bound to follow the program of the Communist International during the period of Harisiades membership. The 1930 membership book (Ex. 18), which a member received when he joined the Party, carries the heading: "Communist Party of the U. S. A. (Section of the Communist International)". It bears the "Signature of District Organizer and Party Seal". Around the outer part of the seal are the words: "Communist Party of the U. S. A.: The Communist International". The membership book contains "Extracts from the Statutes of the Communist Party" in relation to "Membership", "The Structure of the Party", "The Party Nucleus", "Party Discipline", "Party Dues". It contains also under the heading "What is the Communist Party", a paragraph from the program of the Communist International and a paragraph from Lenin. Under the heading "On discipline" two paragraphs are quoted from Lenin, as follows:

"He who weakens, no matter how little, the iron discipline of the Party of the proletariat (especially during the period of dictatorship), effectually helps the bourgeoisie against the proletariat. (Lenin).

"The Party as the best training school for working class leaders, is the only organization competent, in virtue of its experience and authority to centralize

the leadership of the proletarian struggle, and thus to transform all non-Party working class organizations into accessory organs and connecting belts linking up the Party with the working class as a whole. (Lenin)".

The membership book's quotations from the "Statutes" contain the following:

"§ 3—MEMBERSHIP

1. A member of the Party can be every person from the age of eighteen up who accepts the program and statutes of the Communist International and the Communist Party of the U. S. A., who becomes a member of a basic organization of the Party, who is active in this organization, who subordinates himself to all decisions of the Comintern and of the Party, and regularly pays his membership dues."

"§ 12—PARTY DISCIPLINE[14]

1. The strictest discipline is the most solemn duty of all Party members and all Party organizations. The decisions of the CI and the Party Convention, of the CC and of all leading committees of the Party, must be promptly carried out. Discussion of questions over which there have been differences must not continue after the decision has been made."

The membership book (Ex. 18) also answers the question "What is the Communist Party" as follows:

"The party is the vanguard of the working class and consists of the best, most class conscious, most active, the most courageous members of that class. It incorporates the whole body of experience of the

14. On the subject of Party discipline, two paragraphs from the "Program of the Communist International 1928" (Ex. 5A, p. 84) are pertinent and are quoted as follows:

"In order that revolutionary work and revolutionary action may be coordinated and in order that these activities may be guided most successfully, the international proletariat must be bound by international class discipline, for which, first of all, it is most important to have the strictest international discipline in the Communist ranks.

"This international Communist discipline must find expression in the subordination of the partial and local interests of the movement to its general and lasting interests and in the strict fulfillment, by all members, of the decisions passed by the leading bodies of the Communist International."

proletarian struggle, basing itself upon the revolutionary theory of Marxism and representing the general and lasting interests of the whole of the working class, the Party personifies the unity of proletarian principles, of proletarian will and of proletarian revolutionary action. (From the program of the Communist International).

"We are the Party of the working class. Consequently, nearly the whole of that class (in time of war and civil war, the whole of that class) should work under the guidance of our Party, should create the closest contacts with our Party. (LENIN)".

§ 4—"The Structure of the Party"—contains the following paragraphs showing the concentration of power in The Executive Committee of the Communist International and the Central Committee of the Party:

"c) Acceptance and carrying out of the decisions of the higher Party committees by the lower, strict Party discipline, and immediate and exact applications of the decisions of the Executive Committee of the Communist International and of the Central Committee of the Party."

* * *

"e) The discussion on basic Party questions or general Party lines can be carried on by the members only until the Central Committee has decided them. After a decision has been adopted at the congress of the Comintern, the Party convention, or by the leading Party committee, it must be carried out unconditionally, even if some of the members or some of the local organizations are not in agreement with the decision."

The structure of the Communist International and the great power conferred on its Executive Committee Presidium, Political Secretariat are clearly set forth in its Constitution and Rules (Ex. 5A).[15]

15. The following paragraphs of the C. I. Constitution describe its structure and ruling groups:

"1. The Communist International — the International Workers' Association — is a union of Communist Parties in various countries; it is a World Communist Party."

[Continued on page 909]

Opinion of Hon. Vincent L. Leibell

The strict supervision and absolute control exercised by the Communist International over its "Sections" (National

[Continued from page 908]

"2. Each of the various Parties affiliated to the Communist International is called the Communist Party of ..... (name of country) (Section of the Communist International). In any given country there can be only one Communist Party affiliated to the Communist International and representing its Section in that country."

* * * *

"8. The supreme body of the Communist International is the World Congress of representatives of all Parties (Sections) and organizations affiliated to the Communist International.

The World Congress discusses and decides programme, tactical and organizational questions connected with the activities of the Communist International and of its various Sections. Power to alter the programme and rules of the Communist International lies exclusively with the World Congress of the Communist International."

* * *

"10. The World Congress elects the Executive Committee of the Communist International (E. C. C. I.), and the International Control Commission (I. C. C.)."

"11. The headquarters of the Executive Committee is decided on by the World Congress."

"12. The leading body of the Communist International in the period between Congresses is the Executive Committee, which gives instructions to all the Sections of the Communist International and controls their activity.

The E. C. C. I. publishes the Central Organ of the Communist International, in not less than four languages."

"13. The decisions of the E. C. C. I. are obligatory for all the Sections of the Communist International and must be promptly carried out. The Sections have the right to appeal against decisions of the E. C. C. I. to the World Congress, but must continue to carry out such decisions pending the decision of the World Congress."

"14. The Central Committees of the various Sections of the Communist International are responsible to their respective Party Congresses and to the E. C. C. I. The latter has the right to annul or amend decisions of Party Congresses and of Central Committees of Parties and also to make decisions which are obligatory for them. (Cf. Par. 13.)"

"15. The E. C. C. I. has the right to expel from the Communist International, entire Sections, groups and individual members who violate the programme and rules of the Communist International or the decisions of the World Congress and of the E. C. C. I. Persons and bodies expelled have the right of appeal to the World Congress."

"16. The programmes of the various Sections of the Communist International must be endorsed by the E. C. C. I. In the event of the E. C. C. I. refusing to endorse a programme, the Section concerned has the right to appeal to the World Congress of the Communist International."

"17. The leading organs of the press of the various Sections of the Communist International must publish all the decisions and official documents of the E. C. C. I. These decisions must, as far as possible, be published also in the other organs of the Party press."

* * * *

[Continued on page 910]

Parties), the National Party committees and the membership in various countries, is shown by the provisions of many of the paragraphs of the Constitution of the Com-

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[Continued from page 909]

"19. The E. C. C. I. elects a Presidium responsible to the E. C. C. I., which acts as the permanent body carrying out all the business of the E. C. C. I. in the interval between the meetings of the latter."

"20. The E. C. C. I. and its Presidium have the right to establish Permanent Bureaus (Western European, South American, Eastern and other Bureaus of the E. C. C. I.), for the purpose of establishing closer contact with the various Sections of the Communist International and in order to be better able to guide their work.

Note: The scope of the activities of the permanent bureaus of the E. C. C. I. shall be determined by the E. C. C. I. or by its Presidium. The Sections of the Communist International which come within the scope of activities of the permanent bureaus of the E. C. C. I. must be informed of the powers conferred on these bureaus."

"21. The Sections must carry out the instructions of the permanent bureaus of the E. C. C. I. Sections may appeal against the instructions of the permanent bureaus to the E. C. C. I. or to its Presidium, but must continue to carry out such instructions pending the decision of the E. C. C. I. or of its Presidium."

"22. The E. C. C. I. and its Presidium have the right to send their representatives to the various Sections of the Communist International. Such representatives receive their instructions from the E. C. C. I. or from its Presidium, and are responsible to them for their activities. Representatives of the E. C. C. I. have the right to participate in meetings of the central Party bodies as well as of the local organizations of the Sections to which they are sent. Representatives of the E. C. C. I. must carry out their commission in close contact with the Central Committee of the Section to which they are sent. They may, however, speak in opposition to the Central Committee of the given Section, at Congresses and Conferences of that Section, if the line of the Central Committee in question diverges from the instructions of the E. C. C. I. Representatives of the E. C. C. I. are especially obliged to supervise the carrying out of the decisions of the World Congresses and of the Executive Committee of the Communist International.

The E.C.C.I. and its Presidium also have the right to send instructors to the various Sections of the Communist International. The Powers and duties of instructors are determined by the E. C. C. I., to whom the instructors are responsible in their work."

"23. Meetings of the E. C. C. I. must take place not less than once every six months. A quorum consists of not less than one-half of the membership of the E. C. C. I."

"24. Meetings of the Presidium of the E. C. C. I. must take place not less than once a fortnight. A quorum consists of not less than one-half of the membership of the Presidium."

"25. The Presidium elects the Political Secretariat, which is empowered to take decisions, and which also prepares questions for the meetings of the E. C. C. I. and of its Presidium, and acts as their executant body."

munist International quoted in the footnote.[16] See also footnote 3 of Chief Justice Stone's dissenting opinion in the *Schneiderman* case.

The right of appeal to the World Congress from any decision of the Executive Committee was of little value. Although the world Congresses were supposed to be held every two years (§ 8), there was a lapse of seven years between the Sixth World Congress held in 1928 (Ex. 27) and the Seventh World Congress held in 1935 (Ex. 47). The Executive Committee was the ruling body between World Congresses.

Because the Communist Party of the U. S. A. was a "Section" of the Communist International during the

16. "29. The Central Committees of Sections affiliated to the Communist International and the Central Committees of affiliated sympathizing organizations must send to the E. C. C. I. the Minutes of their meetings and reports of their work."

"30. Resignation from office by individual members or groups of members of Central Committees of the various Sections are regarded as disruptive of the Communist movement. Leading posts in the Party do not belong to the occupant of that post, but to the Communist International as a whole. Elected members of the Central Leading bodies of the various Sections may resign before their time of office expires only with the consent of the E. C. C. I. Resignations accepted by Central Committees of Sections without the consent of the E. C. C. I. are invalid."

"31. The Sections affiliated to the Communist International must maintain close organizational and informational contact with each other, arrange for mutual representation of each other's conferences and congresses, and with the consent of the E. C. C. I., exchange leading comrades. This applies particularly to the Sections in imperialist countries and their colonies, and to the Sections in countries adjacent to each other."

"34. Congresses of the various Sections, ordinary and special, can be convened only with the consent of the E. C. C. I.

In the event of a Section failing to convene a Party Congress prior to the convening of a World Congress, that Section before electing delegates to the World Congress, must convene a Party conference, or Plenum of its Central Committee, for the purpose of preparing the questions for the World Congress."

"36. The Communist Parties must be prepared for transition to illegal conditions. The E. C. C. I. must render the Parties concerned assistance in their preparations for transition to illegal conditions."

"37. Individual members of Sections of the Communist International may pass from one country to another only with the consent of the Central Committee of the Section of which they are members.

Communists changing their domicile must join the Section in the country of their new domicile. Communists leaving their country without the consent of the Central Committee of their Section, must not be accepted into other Sections of the Communist International."

period 1925-1939 (the Comintern was not dissolved until 1943)[17] the programs and resolutions adopted by the Communist International at its Congresses and by its Executive Committee between session of the Congress, advocating the overthrow of capitalistic governments by force and violence, are relevant to the issues in this proceeding. As shown above, the Eighth Convention of the Communist Party of the U. S. A. held in April 1934 (Ex. 10) specifically endorsed the Theses of the Thirteenth Plenum of the E. C. C. I. (Ex. 11) issued December 1933. The Manifesto of the Eighth Convention of the Communist Party, U. S. A. (Ex. 12) states:

> "The conditions in the United States confirm the statement of the Thesis of the XIII Plenum of the E.C.C.I.,[18] that 'the international situation bears all the features of the condition of a new world war.' 'The greatest historical task of international communism is to mobilize the broad masses against war, and, even before the war has begun, thereby hasten the doom of capitalism. Only a Bolshevik struggle before the outbreak of war for the triumph of revolution can assure the victory of revolution that breaks out in connection with war.'
>
> "This declaration of the E.C.C.I. applies with full force to the task of the American Communists."

The declaration of the E.C.C.I. meant that if the government of the United States of America became involved in a war, the American Communists' task was to turn it into a civil war by starting an armed insurrection against our government, at a time when its fortunes might be at their lowest and the opportunity for insurrection appeared propitious.

However, Communism was confronted with the growth of Fascism in certain European countries and therefore sought a "united front" with the Social-Democratic groups in capitalistic countries. At the Seventh Congress of the Communist International (July-August 1935) the resolutions adopted (Ex. 47) advise the Executive Committee

17. See footnote 3 to Chief Justice Stone's dissenting opinion in the *Schneiderman* case, *supra*.

18. Exhibit 11, hereinabove discussed.

to seek a united front with the Social-Democratic organizations, and "as a rule, to avoid direct intervention in the internal organizational matters of the Communist Parties" (Sections), and to assist in training "cadres of genuinely Bolshevik leaders in the Communist Parties", avoiding the "Mechanical application of the experience of one country to another country" (pp. 18-19). Nevertheless, one of the resolutions contained a warning "against any tendency to gloss over the differences in principle between Communism and reformism" and "against the illusion that it is possible to bring about socialism by peaceful, legal methods, against any reliance on automatism or spontaneity * * *" (p. 37). In the resolution dealing with "the tasks of the Communist International to meet the "Preparations of the Imperialists for a new World war", the members were reminded that "On the basis of the teachings of Marx—Engels—Lenin—Stalin on war, the Sixth World Congress (held July August 1928[19] of the Communist International concretely formulated the tasks of the Communist Parties and the revolutionary proletariat in the struggle against imperialist war" (p. 44). The resolution further states: "Should a new imperialist world war break out, despite all efforts of the working class to prevent it, the Communists will strive to lead the opponents of war, organized in the struggle for peace, to the struggle for the transformation of the imperialist war into civil war against the fascist instigators of war, against the bourgeoisie, for the overthrow of capitalism" (p. 47). And "If the commencement of a counter-revolutionary war forces the Soviet Union to set the Workers' and Peasants' Red Army in motion for the defense of socialism, the Communists will call upon all toilers to work, with all means at their disposal and at any price, for the victory of the Red Army over the armies of the imperialists" (p. 48).

The opening paragraph of the Resolutions adopted by the Ninth Convention of the Communist Party, U. S. A. (Ex. 41) held in June 1936 states:

> "The Ninth National Convention of the C. P. U. S. A. declares that the analysis of the world situation given by the Seventh Congress of the Communist International has proven correct."[20]

19. See discussion of Exhibit 27, hereinabove.

20. The Resolutions of the Seventh Congress of the Communist International are Exhibit 47, hereinabove discussed.

It also states:

> "The decisions of the World Congress have proven a powerful weapon in the struggle for the unity of the working class against fascism and war".

While conceding that there had been an improvement in business in this country, the resolution of the Ninth National Convention of the Communist Party, U. S. A., declares:

> "But the capitalist system cannot and will not get out of its state of general crisis. Only the proletarian Socialist revolution, by overthrowing the rule of the capitalist class and establishing a Soviet government, will do away with the crisis and insecurity, will do away with the intolerable conditions of capitalist decline and decay. It will establish a socialist system of society as in the Soviet Union, where crises and unemployment are no longer known and where social security has become a reality and the well-being of all toilers is continually improving" (p. 9).
>
> * * *
>
> "The Communist Party will continue with all energy, despite all obstacles, to work for the united front between the Communist and Socialist Parties. It will utilize all occasions to approach the National Committee of the Socialist Party for united action. And this the Communists will do 'without for a moment giving up their independent work in the sphere of Communist education, organization, and mobilization of the masses'. The National Convention warns against all tendencies to slacken on this independent work—the most effective way of stimulating united action—as well as against all tendencies to mistake radical phrases for deeds" (p. 23).
>
> * * *
>
> "These constitute the main tasks of the Party in the present period. It is the building of the united front of the working class and of the People's Front—the Farmer-Labor Party—as a coalition of the working class and its allies. By getting hold of these tasks we shall build the impregnable resistance of the masses against the offensive of reaction and will create the prerequisites for the next and higher stage

of struggle—the overthrow of capitalism and the building of socialism through Soviet power. These are the great historic tasks confronting the Communist Party and every Communist in the United States" (p. 37).

* * *

"While carrying on the daily practical and political tasks as outlined above, the Communists must systematically educate the masses to the Marxist-Leninist position on war as embodied in the thesis of the Sixth World Congress of the Communist International and in the resolution of its Seventh Congress" (p. 53).

The General Secretary of the Communist Party, U. S. A., delivered a Report (Ex. 35) to the Ninth Convention in 1936, in preparation for the 1936 national elections. The report declared:

"The Communist Party must use the opportunity of this election campaign to smash once and for all the superstition, which has been embedded in a maze of court decisions having the force of law, that our party is an advocate of force and violence, that it is subject to law (Federal immigration laws, state 'criminal syndicalism' laws) directed against such advocacy. The Communist Party is not a conspirative organization, it is an open revolutionary Party, continuing the traditions of 1776 and 1861; it is the only organization that is really entitled by its program and work to designate itself as 'sons and daughters of the American revolution'. Communists are not anarchists, not terrorists. The Communist Party is a legal party and defends its legality. Prohibition of advocacy of force and violence does not apply to the Communist Party; * * *". (p. 42)

* * *

"We are going into the 1936 election campaign to win the masses to the people's front against reaction, fascism, and war. Our program is directed to maintain peace, and to advance the economic interests and democratic rights of the workers, farmers, and impoverished middle classes.

> "This is a fight for liberty for the masses of the people. We are the party of socialism, of the proletarian revolution, of Soviet power * * * socialism will come out of life, out of the class struggle. Only by rousing and organizing millions of people in the fight for liberty can we bring these millions to the fight for socialism; only that Party which is the vanguard of millions in their first struggle will lead these millions to the final struggle of the socialist revolution. Our slogan is the slogan of Lenin: 'Through liberty to Socialism' " (p. 42).

If the Communist Party U. S. A. was to strive for a "united front" with other small political socialist groups it felt required to declare that it was not a "conspirative organization", favoring the use of force and violence to overthrow the government. Indeed, it professed to be "an open revolutionary group" like those who signed the Declaration of Independence in 1776, so that it could claim to be in essence a chapter of the Sons and Daughters of the American Revolution.

As Fascism grew more powerful in Europe, threatening both the democracies and the Soviets, the Communist parties changed their slogan from a "united front", a "democratic front" and put on the shelf their former demand for the overthrow of capitalistic governments by force and violence.

The Report of Earl Browder to the Tenth National Convention of the Communist Party of U. S. A., held in May 1938 (Ex. 39) called for a "democratic front" and stated that the Communist Party program could not be for a socialist reorganization of American society because it was not then "on the order of the day".

> "Because the majority of the American people are not convinced of the necessity of this socialist reorganization, this program being accepted as yet only by a relatively small minority, and because today the main enemy is fascism, the Communist Party finds it necessary to dedicate all its forces to realizing the program of the democratic front, and building the organizations of the democratic front, as the only guarantee against the victory of reaction and fascism, which threatens to destroy democ-

racy and all its past achievements, to destroy civilization itself.

> The program of the democratic front is not a socialist program. It is the minimum of those measures necessary, under capitalism, to preserve and extend democracy, all those things which have been the heart of the American tradition in the past, ever since the revolutionary foundation of the United States. The program of the democratic front is squarely based upon traditional Americanism" (p. 87).

Mr. Browder also presented a "new" party constitution to the Tenth National Convention of the Communist Party U. S. A., and stated:

> "This Convention is presented with a new and revised Party Constitution. We have been operating for over nine years with an 'unwritten constitution.'[21] Our Sixth Convention, early in 1929, had adopted a draft constitution, but because that was at the height of the factional disruption created by the renegade Lovestone, it received no serious consideration, never reached the Party, and was lost. We are now at a point in our development when it has become necessary to dispel all vagueness and uncertainty about the Party, its fundamental program, its structure, and its relation to our country and the world. That is the significance of the Constitution presented to you.
>
> There is nothing new in principle in the new Constitution. It is the codification of our existing organizational practice, and presents our fundamental program in the terms of modern America, and in the light of the Seventh World Congress of the International Communist movement.

21. Exhibit 18, a membership book issued by the Central Committee of the Communist Party of the U. S. A. was issued to a member admitted to the Party in August 1930. The membership book contains "Extracts from the Statutes of the Communist Party of the U. S. A." If the Party did not have a "Constitution" in 1930 it did have "Statutes", which served the same purpose. Those statutes followed the Party line. Compare the "Statutes" quoted in Exhibit 18 with the Constitution of the Communist International (Ex. 5A, p. 88). The "Statutes" and "Constitution" of the Communist International meant the same thing. Compare the fly leaf of Exhibit 5 (published in 1936) with that of Exhibit 5A (published in 1929).

> At our Ninth Convention we adopted a special resolution in refutation of all our enemies who wanted to outlaw our Party or isolate it with the charge that we are a conspiratorial party of violent overthrow of American democracy. Our enemies ignored our action, and continued and intensified their slanders against us. We have, therefore, proposed to write our answer to the reactionaries into our Constitution, in such full and complete terms that even a capitalist newspaper editor cannot evade or distort it" (p. 79).

The constitution of the Communist Party U. S. A. adopted in May 1938 is Exhibit 4 in this case. Article II (Emblem) provides:

> "The emblem of the Party shall be the crossed hammer and sickle, representing the unity of worker and farmer, with a circular inscription having at the top 'Communist Party of the U. S. A.' and in the lower part 'Affiliated to the Communist International.'"

Article V (International Solidarity and Assessment) Section 1 provides:

> "Every four months, all members of the Party shall pay an assessment equal to the average dues payment per month for the previous four months, for an International Solidarity Fund. This money shall be used by the National Committee exclusively to aid our brother Communist Parties in other countries suffering from fascist and military reaction."

Article VI (Rights and Duties of Members) Section 1 provides:

> "The Communist Party of the U. S. A. upholds the democratic achievements of the American people. It opposes with all its power any clique, group, circle, faction or party which conspires or acts to subvert, undermine, weaken or overthrow any or all institutions of American democracy whereby the majority of the American people have obtained power to determine their own destiny in any degree. The Communist Party of the U. S. A. standing unqualified

for the right of the majority to direct the destinies of our country, will fight with all its strength against any and every effort, whether it comes from abroad or from within, to impose upon our people the arbitrary will of any selfish minority group or party or clique or conspiracy."

Article X (Disciplinary Procedure) Section 5, provides:

"Party members found to be strikebreakers, degenerates, habitual drunkards, betrayers of Party confidence, provocateurs, advocates of terrorism and violence as a method of Party procedure, or members whose actions are detrimental to the Party and the working class, shall be summarily dismissed from positions of responsibility, expelled from the Party and exposed before the general public."

Article XI on "Affiliation", provides:

"The Communist Party of the U. S. A. is affiliated with its fraternal Communist Parties of other lands through the Communist International and participates in International Congresses, through its National Committee. Resolutions and decisions of International Congresses shall be considered and acted upon by the supreme authority of the Communist Party of the U. S. A., the National Convention, or between Conventions, by the National Committee."

The 1938 constitution of the Communist Party U. S. A. did not separate the Party from the Communist International, but on the contrary maintained its "affiliation" with that body. The Communist Party U. S. A. remained a "Section" of the International, under the latter's constitution, (Ex. 5A).

The historic events of 1939, the alignment of the U. S. S. R. with Fascist Germany in a Treaty or Pact, resulting in the immediate invasion and partitioning of Poland in September 1939, are too well known to require any discussion. Harisiades testified that he was dropped by the Communist Party U. S. A. in October 1939 pursuant to a policy which appears to have been designed to relieve the alien members from the risk of the impact of such statutes as 137 of Title 8 U. S. Code, under which deportation proceed-

ings might be instituted against them. In June 1941 Germany invaded the U. S. S. R. In December 1941 Japan attacked the U. S. A. Thus the capitalistic countries and the Soviets became allies against the Fascist-Axis group. What happened after 1939 within the Communist Party U. S. A. is of slight relevancy. But the course it followed was along the party line, as the exigencies of the International situation required at the time. For that and other reasons, the documents published after October 1939 are entitled to little weight. Further, they were published after the "critical period" in the case at bar, i. e. after Harisiades ceased to be a member of the Communist Party U. S. A. in October 1939. *Schneiderman* v. *United States, supra,* at page 152 tells us that such documents are entitled to little weight.

The 1948 Manifesto of Marx and Engels (Ex. 19) is not an "ancient document" in any sense of the word. It has had a wide circulation, especially since the Third International (1919). Exhibit 19 (the Marx-Engels Manifesto) is from the "Eleventh Printing, April 1939, 100,000 copies". "The Manifesto" is listed by petitioner's counsel as one of the "classics" of the Marxism-Leninism social "science", "theory", "philosophy"; and Lenin and Stalin frequently quoted from it (Exs. 20, 21, 22 and 23). Lenin's and Stalin's books have been printed here in great quantities.[22] "The basic works of Marx, Engels, Lenin and Stalin" were declared by the Communist Party to be "as necessary to our daily life as the air we breathe" (Ex. 37, p. 68). The present day Communists use the term "Marxism-Leninism", which would indicate that the revolutionary doctrine of the Manifesto is to them something still young and fresh.

The fundamental teachings of the Communist International are so clearly and repeatedly expressed in the books written by Lenin and Stalin and in the program, resolutions and theses of the Communist International and its Executive Committee, that they require no testimony of an "expert" to aid the Court in interpreting them. Therefore explanatory testimony of Harisiades and Schneiderman as to the meaning of certain passages in these documents is of little value, as against the clear import of what was written. The "iron discipline" binding the "Sections"

22. Lenin's "State and Revolution" (copyrighted in this country in 1932) had a third printing of 100,000 copies in 1935.

such as the Communist Party U. S. A. and their members to the C. I. is not relaxed by any soft words of the late 1930s. What that discipline meant and how it could be exercised is evidenced by Stalin's 1929 speeches on the Communist Party U. S. A. during the Lovestone factional dispute (Ex. 46).

The record shows that the principal exhibits in this case, including the Resolutions and Programs of the World Congresses were circulated by the Communinst Party U. S. A. The source of publication and sale, as printed on many of the exhibits, proves that point. In fact circulation and distribution of many of these documents by the Communist Party U. S. A. is really not contested. The opinion of the Chief Inspector carefully notes and considers the proof in respect to the circulation and distribution of each important exhibit, immediately following his analysis and discussion of its contents. His conclusion and that of the Chief Examiner and Acting Commissioner, affirmed by the Board of Immigration Appeals, that during Harisiades membership in the Communist Party of the U. S. A., the Party taught and advocated the overthrow of the government of the U. S. A. by force and violence and circulated and distributed literature to that effect, has been established by more than a fair preponderance of the evidence in this case.

Burden of Proof

As stated by Mr. Justice Douglas in the majority opinion in *Bridges* v. *Wixon*, 326 U. S. 135 at p. 149:

> "In these habeas corpus proceedings we do not review the evidence beyond ascertaining that there is some evidence to support the deportation order." (citing *Vajtaver* v. *Commissioner*, 273 U. S. 103, 106).

Chief Justice Stone in his dissenting opinion in *Bridges* v. *Wixon*, stated at p. 167:

> "And when the authority to deport the alien turns on a determination of fact by the Attorney General, the courts, as we have said, are without authority to disturb his finding if it has the support of evidence of any probative value."

In a deportation proceeding the burden of proof required is not as great as in a denaturalization proceeding. *U. S. ex rel. Potash* v. *District Director*, 169 F. 2nd 747 at p. 750. In the case at bar the Chief Examiner held that all the charges were established by "ample substantial evidence." In my opinion the charges on which the Board of Immigration Appeals held that Harisiades was deportable, were proved by more than a fair preponderance of the evidence.

Constitutional Questions

Is § 137 of T. 8 U. S. Code, as amended in June 1940, an "ex post facto law" as applied to the petitioner, Harisiades?

Petitioner's counsel argues that the June 1940 amendment to the statute (T. 8 U. S. C. § 137) which declared deportable any alien who was at the time of entering the United States or *has been at any time thereafter* a member of an organization which believes in, advocates or teaches the overthrow by force or violence of the Government of the United States is an "ex post facto law," if applied to the petitioner, because his membership in the Communist Party in the United States ceased in October 1939 when, it is alleged, the Party formally dropped all alien members. An *ex post facto law* is one that makes an act committed before its passage criminal, although at the time the act was committed it was not criminal. Ex post facto laws are specifically forbidden by Art. I, § 9, of the United States Constitution. But a deportation proceeding is not a criminal proceeding. The retrospective features of a deportation statute do not fall under the ban of the ex post facto section of the Constitution. *Johanessen* v. *United States*, 225 U. S. 227; *Luran* v. *United States*, 231 U. S. 9; *Bugafensty* v. *Adams*, 228 U. S. 585; *Nable* v. *Eby*, 264 U. S. 32.

The June 1940 amendment of the statute was for the specific purpose of overriding the Supreme Court's opinion in *Kesaler* v. *Streckler*, 307 U. S. 22, which held that *present* membership or affiliation in the proscribed organization was required at the time the warrant of arrest was issued and that past membership, even if asumed after the alien became a resident, was not sufficient. After the

1940 amendment (54 Stat. 673) it "was no longer necessary that the alien be an affiliate or member at the time of the issuance of the warrant of arrest," as Mr. Justice Murphy noted in his concurring opinion in *Bridges* v. *Wixon, supra.* Circuit Judge Wilbur discussed the ex post facto argument in *Bridges* v. *Wixon*, 144 F. 2d 927 at p. 936 as follows:

> "It is claimed that the act of 1940 is an expost facto law in that it permits deportation for conduct prior to the enactment of the amended law. The constitutional prohibition against ex post facto laws applied only to criminal proceedings. A proceeding for deportation is not a criminal proceeding and is not intended or designed to punish crime."

Does § 137 of Title 8, U. S. Code violate the First and Fifth Amendments of the U. S. Constitution?

Does a statute of Congress which directs that an alien who teaches and advocates, or is a member of an organization which teaches and advocates, the overthrow of the Government of the United States by force and violence, shall be deported, violate the First Amendment which guarantees freedom of speech and of press? We start with the holding that "Freedom of speech and of press is accorded aliens residing in this country. Bridges v. California, 314 U. S. 252," as stated by Mr. Justice Douglas in *Bridges* v. *Wixon, supra*, at p. 148:

In *Skeffington* v. *Katzoff*, 277 Fed. 129 (C. C. A. 1st 1922), the appellate court held that there was substantial evidence in the record to sustain the finding of the Secretary of Labor that the Communist Party taught and advocated the overthrow of the government of the United States of America by force and violence. In connection with the power of Congress to enact a statute for the deportation of aliens who are members of an organization that teaches or advocates the overthrow of the government by force or violence the Court held at p. 131:

> "It is too well settled by the decisions of the Supreme Court of the United States to require any citation of authorities that an alien resident in the United States may be deported for any reason which Congress has determined will make his residence

here inimical to the best interests of the government."

In *Kjar* v. *Doak*, 61 F. (2d) 566 (C. C. A. 7th 1932) the Court did not specifically consider the constitutionality of the statute but stated generally (Sparks, C. J.) at p. 570:

> "Congress has the power to prescribe conditions upon which aliens may be admitted and permitted to remain in this country. These conditions are binding upon the courts, and we have no authority or discretion to disregard them."

Congress has defined by statute, in Title 18 U. S. Code, Chapter 115, "Treason" (§ 2281) and "Misprison of Treason" (§ 2382), which apply only to those "owing allegiance to the United States"; also "Rebellion or insurrection" (§ 2382) and "Seditious conspiracy" (§ 2384), which apply to aliens as well as citizens; and finally "advocating overthrow of Government" (§ 2385) which applies to any person, citizen or alien. The latter statute (§ 2385) includes any one who organizes or attempts to organize a group to advocate the overthrow or destruction of our government; or who "becomes or is a member of, or affiliates with, any such" group "knowing the purposes thereof".

It would seem that if Congress can declare membership in such a group, with knowledge of its purposes, a crime, it may properly declare any such membership by an alien as sufficient grounds for deporting him.

The preamble of the Constitution states:

> "We the People of the United States, in order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America."

The Constitution distributes the powers of the Government to its three branches—legislative, executive, and judicial.

Among the powers conferred on the Congress as the legislative branch, is the power "To establish a uniform Rule of

Naturalization". Congress is also empowered: "To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrection and repel Invasions".

Article V provides for amendments to the Constitution. The first amendment states, among other things, that Congress shall make no law "abridging the freedom of speech, or of the press."

In *Ex Parte Bridges*, 79 F. Supp. 292 (N. D. Calif. 1943) Welsh, *J.*, considered the constitutionality of Section 137 of Title 8, U. S. Code, in the light of the constitutional provisions and upheld it as a valid exercise of Congressional power. He stated at p. 300:

> "I do not consider it necessary to uphold the validity of the Act of Congress in this case upon the broad principle that Congress may, as an incident of sovereignity, expel resident aliens on any or no ground at all. For Congress undoubtedly may, within the bounds of constitutional limitations, enact legislation looking toward the expulsion of aliens whose course of conduct while residents of this country, has marked them with the possession of qualities which can reasonably be said to render their continued presence here undesirable in the interests of public welfare. By the Act of October 16, 1918, as amended in 1940, Congress has classified within the category of aliens whose presence it deems inimicable to the welfare of this country, those aliens who, through past participation by membership in or affiliation with subversive organizations, have indicated at least a one-time disposition of hostility toward our established form of government and a willingness to see it destroyed by force and violence. In subjecting such aliens to deportation, it cannot be said that Congress has acted capriciously. Although such aliens may have discontinued their subversive affiliations, they nevertheless have manifested a spirit of disloyalty; they have shown a willingness to accept the hospitality and protection offered them by this country while participating in activities designed, not toward peaceable and constitutionally authorized changes in its government, but rather toward the eventual revolutionary and violent overthrow of the government whose protection they have enjoyed. The Congressional assumption that such

aliens do not constitute desirable material for residents or citizens of this country is not arbitrary and unreasonable and consequently, it is not in excess of Congressional power to provide for their deportation. If the result is a curtailment of their freedom of speech while in this country, it is a curtailment consonant with the constitutional guarantees of the Bill of Rights.

* * * * *

Congressional power over the deportation of undesirable aliens is co-existent with guaranteed freedom of speech. Both should be so construed that the efficacy of neither is thereby destroyed. I see no cause for complaint that Congress has not confined itself to the deportation of alien members or affiliates of those subversive organizations only whose activities present a clear, serious or imminent danger of accomplishing the evil which the legislation is designed to prevent. Aliens who, by their associations, have evidenced belief in the forcible and violent overthrow of our Government, become none the more desirable material for residents or citizens of this country because their views do not embrace the conception of immediate revolution but are directed rather to forcible and violent overthrow of organized government at some indefinite future period when the opportune moment may present itself."

On appeal, *Bridges* v. *Wixon*, 144 F. (2d) 927, at p. 931 (C. C. A. 9th 1944), the appellate court quoted the following from the opinion of Mr. Justice Pitney in *Zakonaite* v. *Wolf*, 226 U. S. 272:

"'It is entirely settled that the authority of Congress to prohibit aliens from coming within the United States, and to regulate their coming, includes authority to impose conditions upon the performance of which the continued liberty of the alien to reside within the bounds of this country may be made to depend; that a proceeding to enforce such regulations is not a criminal prosecution within the meaning of the 5th and 6th Amendments; that such an inquiry may be properly devolved upon an executive department or subordinate officials thereof, and that the findings of fact reached by such

officials, after a fair though summary hearing may constitutionally be made conclusive, as they are made by the provisions of the act in question'."

On appeal to the Supreme Court, *Bridges* v. *Wixon, supra,* that Court did not consider the constitutionality of the statute, but held that prejudicial error had been committed in the admission of evidence, and that the word "affiliation," as used in the statute, had been improperly construed by the lower courts. Accordingly the Supreme Court held that it was unnecessary to consider the larger constitutional questions raised by the petitioner.[22] However, Mr. Justice Murphy in a concurring opinion concluded that the statute was unconstitutional because it imputed guilt from association, and violated the First Amendment of the Constitution as to free speech and press.

Mr. Justice Murphy stated in his concurring opinion (at p. 161):

> "The power to exclude and deport aliens is one springing out of the inherent sovereignty of the United States. *The Chinese Exclusion Case,* 130 U. S. 581. Since an alien obviously brings with him no constitutional rights, Congress may exclude him in the first instance for whatever reason it seems fit. *Turner* v. *Williams,* 194 U. S. 279. The Bill of Rights is a futile authority for the alien seeking admission for the first time to these shores. But once an alien lawfully enters and resides in this country he becomes invested with the rights guaranteed by the Constitution to all people within our borders. Such rights include those protected by the First and the Fifth Amendments and by the due process clause of the Fourteenth Amendment. None of these provisions acknowledges any distinction between citizens and resident aliens. They extend their inalienable privileges to all 'persons' and guard them against any encroachment on those

22. That the statute was an ex post facto law; that petitioner was subjected to double jeopardy; that he had been denied equal protection of law; that the statute was violative of the right of free speech and freedom of assembly.

> rights by federal or state authority. Indeed, this Court has previously and expressly recognized that Harry Bridges, the alien, possesses the right to free speech and free press and that the Constitution will defend him in the exercise of that right. *Bridges* v. *California*, 314 U. S. 252."

Those who contend that the alien may not be deported for membership in the Communist Party rely mainly on the "clear and present danger" doctrine of *Schenk* v. *United States*, 249 U. S. 47. (See concurring opinion of Mr. Justice Murphy in the *Schneiderman* case.) In the *Schenck* case the general secretary of the Socialist party was prosecuted for a conspiracy to violate the Espionage Act of June 15, 1917 (40 Stat. 217, 219) "by causing and attempting to cause insubordination, etc. in the military and naval forces of the United States, and to obstruct the recruiting and enlistment service of the United States" when the United States was at war with Germany. Mr. Justice Holmes wrote the opinion of the Supreme Court and stated at page 51:

> "But it is said, suppose that that was the tendency of this circular, it is protected by the First Amendment to the Constitution. Two of the strongest expressions are said to be quoted respectively from well-known public men. It well may be that the prohibition of laws abridging the freedom of speech is not confined to previous restraints, although to prevent them may have been the main purpose, as intimated in *Patterson* v. *Colorado*, 205 U. S. 454, 462. We admit that in many places and in ordinary times the defendants in saying all that was said in the circular would have been within their constitutional rights. But the character of every act depends upon the circumstances in which it is done. *Aikens* v. *Wisconsin*, 195 U. S. 194, 205, 206. The most stringent protection of free speech would not protect a man in falsely shouting fire in a theatre and causing a panic. It does not even protect a man from an injunction against uttering words that may have all the effect of force. *Gompers* v. *Bucks Stove & Range Co.*, 221 U. S. 418, 439. The question in every case is whether the

words used are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about the substantive evils that Congress has a right to prevent. It is a question of proximity and degree. When a nation is at war many things that might be said in time of peace are such a hindrance to its effort that their utterance will not be endured so long as men fight and that no Court could regard them as protected by any constitutional right. It seems to be admitted that if an actual obstruction of the recruiting service were proved, liability for words that produced that effect might be enforced. The statute of 1917 in § 4 punishes conspiracies to obstruct as well as actual obstruction. If the act (speaking or circulating a paper), its tendency and the intent with which it is done are the same, we perceive no ground for saying that success alone warrants making the act a crime. *Goldman* v. *United States*, 245 U. S. 474, 477. Indeed that case might be said to dispose of the present contention if the precedent covers all media concludendi. But as the right to free speech was not referred to specially, we have thought fit to add a few words."

Thus the right of freedom of speech is not so absolute that it cannot be restricted by statute, in the interest of the public safety.

In *Gitlow* v. *New York*, 268 U. S. 652, the majority opinion discussed the right of a state to enact a statute which prohibited any person from advocating, advising, or teaching by word of mouth or writing, the duty, necessity or propriety of overthrowing or overturning organized government by force or violence. The following is quoted from the majority opinion of Mr. Justice Sanford at p. 666:

"It is a fundamental principle, long established, that freedom of speech and of the press which is secured by the Constitution, does not confer an absolute right to speak or publish, without responsibility, whatever one may choose, or an unrestricted and unbridled license that gives immunity for every possible use of language and prevents the punishment of those who abuse this freedom. 2 Story on the Constitution, 5th ed. § 1580, p. 634; *Robertson* v.

Baldwin, 165 U. S. 275, 281; *Patterson* v. *Colorado*, U. S. 454, 462; *Fox* v. *Washington*, 236 U. S. 273, 276; *Schenck* v. *United States*, 249 U. S. 47, 52; *Frohwerk* v. *United States*, 249 U. S. 204, 206; *Debs* v. *United States*, 249 U. S. 211, 213; *Schaefer* v. *United States*, 251 U. S. 466, 474; *Gilbert* v. *Minnesota*, 254 U. S. 325, 332; *Warren* v. *United States*, (C. C. A. 183 Fed. 718, 721. Reasonably limited, it was said by Story in the passage cited, this freedom is an inestimable privilege in a free government; without such limitation, it might become the scourge of the republic.

That a State in the exercise of its police power may punish those who abuse this freedom by utterances inimical to the public welfare, tending to corrupt public morals, incite to crime, or disturb the public peace, is not open to question. *Robertson* v. *Baldwin*, *supra*, p. 281; *Patterson* v. *Colorado*, *supra*, p. 462; *Fox* v. *Washington*, *supra*, p. 277; *Gilbert* v. *Minnesota*, *supra*, p. 339; *People* v. *Most*, 171 N. Y. 423, 431; *State* v. *Holm*, 139 Minn. 267, 275; *State* v. *Hennessy*, 114 Wash. 351, 359; *State* v. *Boyd*, 86 N. J. L. 75, 79; *State* v. *McKee*, 73 Conn. 18, 27. Thus it was held by this court in the *Fox* case, that a State may punish publications advocating and encouraging a breach of its criminal laws; and, in the *Gilbert case*, that a State may punish utterances teaching or advocating that its citizens should not assist the United States in prosecuting or carrying on war with its public enemies.

And, for yet more imperative reasons, a State may punish utterances endangering the foundations of organized government and threatening its overthrow by unlawful means. These imperil its own existence as a constitutional State. Freedom of speech and press, said Story (*supra*) does not protect disturbances to the public peace or the attempt to subvert the government. It does not protect publications or teachings which tend to subvert or imperil the government or to impede or hinder it in the performance of its governmental duties."

* * * *

"That utterances inciting to the overthrow of organized government by unlawful means, present a sufficient danger of substantive evil to bring their punishment within the range of legislative discre-

tion, is clear. Such utterances, by their very nature, involve danger to the public peace and to the security of the State. They threaten breaches of the peace and ultimate revolution."

"It (the State) cannot reasonably be required to defer the adoption of measures for its own peace and safety until the revolutionary utterances lead to actual disturbances of the public peace or imminent and immediate danger of its own destruction; but it may, in the exercise of its judgment, suppress the threatened danger of its incipiency. *In People* v. *Lloyd*, (304 Ill. 23) *supra*, p. 35, it was aptly said: 'Manifestly, the legislature has authority to forbid the advocacy of a doctrine designed and intended to overthrow the government without waiting until there is a present and imminent danger of the success of the plan advocated. If the State were compelled to wait until the apprehended danger became certain, then its right to protect itself would come into being simultaneously with the overthrow of the government, when there would be neither prosecuting officers nor courts for the enforcement of the law.'"[24]

We cannot hold that the present statute is an arbitrary or unreasonable exercise of the police power of the State unwarrantably infringing the freedom of speech or press; and we must and do sustain its constitutionality.

This being so it may be applied to every utterance—not too trivial to be beneath the notice of the law—which is of such a character and used with such intent and purpose as to bring it within the prohibition of the statute. This principle is illustrated in *Fox* v. *Washington*, *supra* (236 U. S. 273), p. 277; *Abrams* v. *United States*, 250 U. S. 616, 624; *Schaefer* v. *United States*, *supra* (251 U. S. 466), pp. 479, 480; *Pierce* v. *United States*, 252 U. S. 239, 250, 251; and *Gilbert* v. *Minnesota*, *supra* (254 U. S. 325), p. 333. In other words, when the legislative body has determined generally, in the constitutional exercise of its discretion, that utterances of a certain kind involve such danger of substantive evil that they may be punished, the question whether any specific utterances coming within the prohibited class is likely, in

24. The logic of this argument is very persuasive.

and of itself, to bring about the substantive evil, is not open to consideration. It is sufficient that the statute itself be constitutional and that the use of the language comes within its prohibition.

It is clear that the question in such cases is entirely different from that involved in those cases where the statute merely prohibits certain acts involving the danger of substantive evil, without any reference to language itself, and it is sought to apply its provisions to language used by the defendant for the purpose of bringing about the prohibited results. There, if it be contended that the statute cannot be applied to the language used by the defendant because of its protection by the freedom of speech or press, it must necessarily be found, as an original question, without any previous determination by the legislative body, whether the specific language used involved such likelihood of bringing about the substantive evil as to deprive it of the constitutional protection. In such cases it has been held that the general provisions of the statute may be constitutionally applied to the specific utterance of the defendant and its natural tendency and probable effect was to bring about the substantive evil which the legislative body might prevent. *Schenck* v. *United States, supra* (249 U. S. 47), p. 51; *Debs* v. *United States, supra* (249 U. S. 211), pp. 215, 216. And the general statement in the *Schenck* Case (p. 52) that the 'question in every case is whether the words are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about the substantive evils,'—upon which great reliance is placed in the defendant's argument—was manifestly intended, as shown by the context, to apply only in cases of this class, and has no application to those like the present, where the legislative body itself has previously determined the danger of substantive evil arising from utterances of a specified character."[25]

25. Mr. Justice Holmes in a dissenting opinion (p. 672) in which Mr. Justice Brandeis concurred admitted the Supreme Court did not adopt the "clear and present danger" test in two decisions handed down after the *Schenck* case. He said "It is true that in my opinion this criterion was departed from in *Abrams* v. *United States*, 250 U. S. 616. but the convictions that I expressed in that case are too deep for it to be possible for me to believe as yet that it and *Schaefer* v. *United States*, 251 U. S. 466, have settled the law. If what I think the correct test is applied, it is manifest that there is no present danger of an attempt to overthrow the government by force on the part of the admittedly small minority who shared the defendant's views."

Both the *Schenck* and the *Gitlow* cases were considered by the Eighth Circuit Court of Appeals in *Dunne* v. *United States*, 138 F. (2d) 137 (1943) in passing upon the validity of a statute (18 U. S. C. § 10 now 18 U. S. C. § 2385) which provided that it shall be unlawful:

> "'* * * to knowingly or willfully advocate, abet, advise, or teach the duty, necessity, desirability, or propriety of overthrowing or destroying any government in the United States by force or violence * * *.'"

The court analyzed the *Schenck* and *Gitlow* cases as follows:

> "The attack upon the validity of the Act which appellants base on the 'application' of the Act is the contention that the 'clear and present danger' doctrine of Schenck v. United States, 249 U. S. 47, 52, 39 S. Ct. 247, 249, 63 L. Ed. 470, controls a statute of this character and that the facts here fall outside of that doctrine. 'Where regulations of the liberty of free discussions are concerned, there are special reasons for observing the rule that it is the statute, and not the accusation or the evidence under it, which prescribes the limits of permissible conduct and warns against transgression.' Thornill v. State of Alabama, 310 U. S. 88, 98, 60 S. Ct. 736, 742, 84 L. Ed. 1093. Whether the Act is of a character to be measured by the above doctrine and, if so, whether it meets such measurement are pertinent to the issue of validity.
>
> While the doctrine of the Schenck case 'has afforded practical guidance in a great variety of cases in which the scope of constitutional protections of freedom of expression was in issue' (Bridges v. State of California, 314 U. S. 252, 262, 62 S. Ct. 190, 193, 86 L. Ed. 192), yet it is by no means of universal application, Gitlow v. People of State of New York, 268 U. S. 642, 45 S. Ct. 625, 69 L. Ed. 1138, definitely determines that the Schenck case doctrine is not applicable in situations where the legislative body has, by statute, determined that 'utterances of a certain kind involve such danger of substantive evil that they may be punished,' 268 U. S. at page 670, 45 S. Ct. at page 631, 69 L. Ed. 1138. The distinction

between such cases and those to which the Schenck case doctrine is applicable is clearly stated in the Gitlow opinion at pages 670 and 671 of 268 U. S., 45 S. Ct. at page 631, 69 L. Ed. 1138. This distinction has not been departed from nor weakened by any subsequent holding of the Supreme Court but, to the contrary, has been recognized and applied. Cantwell v. State of Connecticut, 310 U. S. 296, 307, 308, 60 S. Ct. 900, 84 L. Ed. 1213, 128 A. L. R. 1352; Herndon v. Lowry, 301 U. S. 242, 256-258, 57 S. Ct. 732, 81 L. Ed. 1066; Stromberg v. People of State of California, 283 U. S. 359, 368, 369, 51 S. Ct. 532, 75 L. Ed. 1117, 73 A. L. R. 1484; Whitney v. People of State of California, 274 U. S. 357, 371, 372, 47 S. Ct. 641, 71 L. Ed. 1095."

Certiorari was denied in the *Dunne* case, 320 U. S. 790, November 22, 1943, and two petitions for a rehearing were likewise denied December 6, 1943 (p. 814) and January 3, 1944 (p. 815), by the same bench which decided *Bridges* v. *Wixon, supra*.

The deportation statute in the case at bar is very similar to the statute involved in the *Gitlow* case, and under the ruling in that case the "clear and present danger" test does not apply to a deportation proceeding, such as this.

The record in this deportation proceeding shows that the Communist Party of the United States of America, during the period in which the petitioner, Peter Harisiades, was a member, organizer, division executive and secretary of its Greek Bureau, advised, advocated and taught the overthrow of the government of the United States of America by force and violence, and circulated and distributed printed matter which so advocated. Section 137 of Title 8, U. S. Code is constitutional. The writ of habeas corpus is dismissed on the merits. The petitioner, Peter Harisiades, will be remanded to the custody of the respondent, the District Director of Immigration and Naturalization at the Port of New York, to be held for deportation pursuant to the warrant and order of deportation issued December 16, 1948.

Settle an order accordingly.

Dated, February 9th, 1950.

VINCENT L. LEIBELL
United States District Judge

Order Dismissing Writ

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

[SAME TITLE]

The writ of habeas corpus in the above-entitled proceeding having come on to be heard before this Court on the 19th day of July, 1949, and after hearing Carol King and Isidore Englander, Attorneys for the petitioner (David M. Freedman, of counsel), in support of the writ, and John F. X. McGohey, United States Attorney for the Southern District of New York (Clarke S. Ryan, Assistant United States Attorney, of counsel), in opposition thereto, and upon the petition for the writ, the return thereto and a traverse, and the Court having filed its opinion herein on February 9, 1950, and on all the papers and proceedings had herein, it is

ORDERED that the writ of habeas corpus be, and it hereby is, dismissed; and it is further

ORDERED that relator surrender to the custody of the District Director, Immigration and Naturalization Service, at Ellis Island, New York Harbor, within five days after entry of this order.

Dated: New York, N. Y.,
February 20, 1950.

VINCENT L. LEIBELL
United States District Judge

Notice of Appeal

UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF NEW YORK

PETER HARISIADES,

Relator-Appellant,

against

EDWARD J. SHAUGHNESSY, District Director of Immigration and Naturalization at The Port of New York,

Respondent-Appellant.

Sirs:

You and each of you will please take notice that Peter Harisiades, the relator-appellant in the above entitled matter, hereby appeals to the United States Court of Appeals for the Second Circuit from the order of Honorable Vincent L. Leibell, one of the Judges of the United States District Court for the Southern District of New York, made and entered herein on the 20th day of February, 1950, dismissing the petition for a writ of habeas corpus filed herein and ordering the relator-appellant to surrender to the custody of the District Director, Immigration and Naturalization Service, at Ellis Island, New York Harbor.

Dated: New York, N. Y.,
February 20, 1950.

Yours, etc.,

CAROL KING
ISIDORE ENGLANDER
Attorneys for Relator-Appellant
Office & P. O. Address
220 Broadway
Borough of Manhattan
City of New York

To:

CLERK OF THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

IRVING H. SAYPOL, ESQ.
United States Attorney for the
Southern District of New York

Order to Show Cause Why Petition for Writ of Habeas Corpus Should Not be Amended

UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF NEW YORK

[SAME TITLE]

Upon the annexed affidavit of Carol King, verified the 1st day of March, 1950, and upon the proposed amended petition for a writ of habeas corpus, and upon the original petition and writ of habeas corpus heretofore sued out herein and the return and record annexed thereto and the traverse to said return and the opinion of Hon. Vincent L. Leibell dated the 9th day of February, 1950, and the order thereon dismissing the writ of habeas corpus made and entered on the 20th day of February, 1950, and the amended order made and entered on the 23rd day of February, 1950, and the notice of appeal therefrom dated the said 20th day of February, 1950, and upon all the papers and proceedings heretofore had herein.

Let the respondent show cause at a motion part of this Court on the 7th day of March, 1950, in Room 506 of the United States Court House, Foley Square, New York City, at 10:30 o'clock in the forenoon of that day or as soon thereafter as counsel can be heard why (a) the petition for writ of habeas corpus verified the first day of July, 1949, should not be amended, nunc pro tunc, in accordance with the annexed copy (b) the said writ of habeas corpus should not be reargued, and (c) upon such reargument the said writ of habeas corpus should not be sustained, and

Meanwhile and until the final disposition of this application, let all proceedings concerned with the appeal from the orders of February 20 and 23, 1950, dismissing the writ of habeas corpus herein be stayed, and

Let the relator have such other further and different relief as to this Court may seem just and proper.

Sufficient reason appearing therefor, service of a copy of this order to show cause and the annexed affidavit of Carol King and the proposed amended petition on the United States Attorney for the Southern District of New York, Attorney for the respondent, on or before the 2nd day of March, 1950, is sufficient.

Dated: New York, N. Y.,
March 1st, 1950.

EDWARD A. CONGER
U. S. D. J.

Affidavit of Carol King, in Support of Preceding Motion

UNITED STATES DISTRICT COURT,

SOUTHERN DISTRICT OF NEW YORK.

[SAME TITLE]

STATE OF NEW YORK, }
COUNTY OF NEW YORK, } ss.:

CAROL KING, being duly sworn, says: I am one of the attorneys for Peter Harisiades, the relator herein, and together with Isidore Englander, Esq., have been in charge of this proceeding since or about the date of the service of the warrant of arrest on May 2, 1946. Hearings were conducted by Gilbert Zimmerman, an inspector of the Immigration and Naturalization Service on October 15, 1946 and January 30-31, 1947. Mr. Zimmerman acted as both examining and presiding inspector at such hearings.

On March 11, 1947 the said Zimmerman made a report which concluded with proposed findings of fact and conclusions of law. The record was then forwarded to the Central Office of the Immigration and Naturalization Service and on May 14, 1947, the attorneys for the alien filed exceptions to said report and to the proposed findings and conclusions. On August 5, 1947 the Commissioner ordered the hearing to be reopened for, among other reasons, the lodging of additional charges.

The hearing was reopened February 18-19, 1948. The following two additional charges were lodged:

"(4) The Act of October 16, 1918, as amended, in that he is found to have been after entry, a member of the following class set forth in Section I of said Act: An alien who is a member of and affiliated with an organization, association, society, and group that advises, advocates, and teaches the overthrow by force and violence of the Government of the United States.

(5) The Act of October 16, 1918, as amended, in that he is found to have been, after entry, a member of the following class set forth in Section I of said Act. An alien who is a member of and affiliated with

an organization, association, society, and group, that writes, circulates, distributes, prints, publishes, and displays, and causes to be written, circulated, distributed, printed, published and displayed, and that has in its possession for the purpose of circulation, distribution, publication, issue, and display, written and printed matter advising, advocating, and teaching the overthrow by force and violence of the Government of the United States."

At the reopened hearing Gilbert Zimmerman, who had acted both as examining inspector and presiding inspector at the original hearings, now acted as presiding inspector. The examining inspector at the reopened hearing was Maurice A. Roberts, Esq. The reopened hearings continued on March 9-10, 1948, with the same presiding and examining inspectors.

Meanwhile and on June 11, 1946 the Administrative Procedure Act (60 Stat. 237, 5 U. S. C. §§1001 et seq.) became law. Section 7(a) of said Act provided:

"Presiding Officers.—There shall preside at the taking of evidence (1) the agency (2) one or more members of the body which comprises the agency, or (3) one or more examiners appointed as provided in this Act; but nothing in this Act shall be deemed to supersede the conduct of specified classes of proceedings in whole or part by or before boards or other officers specially provided for by or designated pursuant to statute * * *."

The effective date of said section was June 11, 1947.

From May 7, 1948, at which time the Service was enjoined by Judge Goldsborough from conducting five hearings unless they did so in accordance with the Administrative Procedure Act (*Eisler* v. *Clark*, 77 F. Supp. 610) until September 2, 1948, the Service conducted no deportation hearings whatsoever. Apparently the Service then recognized that it was without power to conduct such hearings unless it complied. Impatient, however, to go forward—without due regard for the constitutional rights of aliens and the provisions of the new statute, and in reliance upon a few scattered and ill-considered lower courts holding the Service exempt from the requirements of the Administrative Procedure Act—the Immigration and Naturaliza-

tion Service assumed holding deportation hearings regardless of legal requirements. Accordingly in the case at bar they initiated new proceedings on new charges and thereafter conducted deportation hearings regardless of statutory mandate.

The record indicates that the Commission ordered the reopening of the hearing at which new charges were to be initiated on August 5, 1947. A letter apprising counsel and the alien that they intended to initiate new charges was sent out under date of September 3, 1947. The actual initiation of such new charges took place on February 18, 1948—more than eight months after the effective date of the Administrative Procedure Act.

Clearly as to the additional lodged charges the proceedings were initiated long after the effective date of Sections 7(a) and 11 of the Administrative Procedure Act, and accordingly the hearing on such newly initiated charges should have been conducted before an examiner appointed as provided in that Act. This was, however, not done.

On June 24, 1948 said Gilbert Zimmerman, who had been the examining and presiding inspector in the original hearings, made his report on the reopened hearing and in his proposed findings and conclusions at the close of said report he concluded that the alien was subject to deportation under each of the new lodged charges. His proposed conclusions incorporated these charges.

Inspector Zimmerman's propsed conclusions were "So Ordered" by the Commissioner on December 16, 1948, and on the same day a warrant embodying those charges for Harisiades' deportation was issued.

On appeal the Board of Immigration Appeals dropped some of the grounds of deportation but sustained the grounds for deportation contained in the new lodged charges.

Within a week of the opinion of the Board of Immigration Appeals Harisiades was taken into custody without any notice to surrender. For that reason papers for review under the Administrative Procedure Act were drawn. The application was denied—apparently improperly, in view of the later decision in *Kristensen* v. *McGrath* (U. S. C. A., D. C., #10044, December 12, 1949, not yet reported)—and on the same day, in fact, within the hour, a writ of habeas corpus was sued out.

Throughout the court proceedings, although there was a general allegation of a denial of due process of law,

there was no specific allegation of the Government's failure to conduct their hearings in accordance with Section 7(a) and Section 11 of the Administrative Procedure Act, and of the improper use of Inspector Zimmerman at the original hearing as prosecutor and judge, or in the terminology of the Service as presiding inspector and examining inspector, and of his exercising prosecutive functions by the questioning of respondent and his witness. Thus these questions were not called to the attention of this Court and hence not specifically passed upon.

After the order dismissing the writ herein had been signed and an appeal therefrom filed on February 20, 1950, counsel for the first time learned at 3:00 p.m. on that day of the earlier decision on the same day by the United States Supreme Court in the case of *Wong Yang Sung* v. *McGrath* (Docket No. 154, October Term, 1949) holding that "deportation proceedings must confrom to the requirements of the Administrative Procedure Act if resulting orders are to have validity." Counsel was unable to read the Supreme Court's opinion until the following day and thereupon and as soon as circumstances permitted made this affidavit in support of this application to reopen this case and reargue the petition and writ of habeas corpus in the light of the *Wong Yang Sung* opinion.

The reason why this affidavit is made by me as attorney rather than by Harisiades is because it is concerned with matters of law with which he is unfamiliar. The changes in the propcsed amended petition are subdivisions C, D and E of Paragraph 15.

WHEREFORE I respectfully pray that an order be entered herein (a) amending the petition for writ of habeas corpus nunc pro tunc in accordance with the annexed proposed petition (b) permitting reargument of said writ of habeas corpus, and (c) upon such reargument, that the writ of habeas corpus herein be sustained, and for such other and further relief as to this Court may seem just and proper, for all of which no previous application has been made.

CAROL KING

(Sworn to March 1st, 1950.)

Proposed Amended Petition Annexed to Affidavit of Carol King

UNITED STATES DISTRICT COURT,

SOUTHERN DISTRICT OF NEW YORK.

[SAME TITLE]

To the Honorable the Judges of the United States District Court for the Southern District of New York:

The petition of Peter Harisiades by Carol King, one of his attorneys, shows:

1. The petitioner is now actually in custody at Ellis Island awaiting deportation to Greece as a result of his arrest ordered by the respondent and effected by the agents of the respondent under the Act of October 16, 1918, as amended.

2. On information and belief the sole claim and sole authority by virtue of which the respondent so restrains and detains the petitioner is a warrant of deportation served upon said petitioner on or about the 20th day of May 1949.

3. The Immigration and Naturalization Service found that petitioner had been a member of the Communist Party from in or about 1925 until October 1939.

4. Because of said membership the petitioner was charged with, and found to be residing in the United States in violation of the Immigration Act of October 16, 1918, as amended by the Act of June 28, 1940, in that he was found to have been after entry a member of the following classes set forth in Section I of said Act: (1) An alien who is a member of an organization that adovcates the overthrow by force or violence of the Government of the United States, and, (2) an alien who was a member of an organization that distributes printed matter containing such advocacy.

5. The Board of Immigration Appeals in its opinion in petitioner's case stated that "the evidence of record

does not establish that the respondent personally believed in or advocated the overthrow of the Government of the United States by force or violence".

6. The petitioner came to the United States legally on March 7, 1916, when he was about 13 years of age, and has never left the country since that date. The record of his entry at the Port of New York on the S.S. "Vasilefs Constantinos" was introduced as an exhibit in his case. On or about September 15, 1937 he married Sarah Topal in the City of New York and has lived with his wife ever since that time. She is a citizen of the United States, having derived such citizenship by virtue of the naturalization of her father.

7. There was issue of such marriage a daughter, Irene Harrison, now ten years of age, and a son, George Harrison, now four years of age, both native born citizens of the United States.

8. On the 28th day of December 1944 petitioner filed a petition for naturalization in the United States District Court for the Southern District of New York, and that petition is still pending undetermined.

9. Up to the time of his arrest petitioner lived with his wife and children at 392 East 4th Street, Apartment B4, Brooklyn, New York, and the entire family depends upon his wages for its support and maintenance.

10. The petitioner has not been convicted of the commission of any act of violence, nor has he been incarcerated as a result of any criminal conviction whatsoever.

11. Despite the 33 years the petitioner has resided in the United States and despite the extended hearings conducted in his case, the only evidence relied upon by the Immigration and Naturalization Service to sustain the charges lodged against the petitioner was the fact that he was a member of the Workers (Communist) Party and its successor, the Communist Party of the U.S.A., from the year 1925 until in or about the year 1939, which was readily admitted by the petitioner.

Proposed Amended Petition Annexed to Affidavit of Carol King

12. The record of the deportation hearing fails to disclose substantial evidence to establish that the Communist Party of the U.S.A. in fact believed in or advocated the overthrow of the Government of the United States by force and violence during petitioner's membership or distributed literature containing such advocacy.

13. The warrant of arrest, the entire proceeding to deport plaintiff, and other activities of the Government to achieve that purpose, the proposed Findings of Fact, proposed Conclusions of Law, and propsed Order of the Presiding Inspector, the Decision of the Commissioner of Immigration and Naturalization, and the Order of the Board of Immigration Appeals, the warrant of deportation, and the detention, restraint and imprisonment of petitioner are unlawful and illegal, for the reason that petitioner has been deprived of his right to freedom of speech, freedom of press, the right peaceably to assemble and to petition the Government for a redress of grievances, in violation of the First Amendment to the Constitution of the United States; and has been deprived of liberty and property without due process of law in violation of the Fifth Amendment to the Constitution of the United States, in that:

A. The said statute as written deprives petitioner of said rights.

B. The said statute, as construed and applied to petitioner, would deport petitioner for membership in or affiliation with a proscribed organization which has not been shown to believe in or advocate the immediate forcible overthrow of the Government of the United States. The documents and evidence do not establish that the Communist Party of the U.S.A. advocated the overthrow of the Government of the United States in the foreseable future and the said party by whatever name it is called did not present any clear and present danger to the safety and stability of the United States. In truth and in fact the petitioner ceased membership in the said organization in 1939 and ten years have elapsed since that date and no overthrow of this Government by the said organization or any other person or organization has been effected or attempted.

C. Petitioner has been ordered deported for membership in an organization that distributes, or has in its pos-

session for distribution, proscribed literature, without any showing that petitioner was in any way connected with such distribution or that petitioner had knowledge that such literature, if such be the fact, advocated the overthrow of this Government by force and violence.

D. The statute requires relinquishment of the right to belong to organizations proscribed by the statute, thereby imposing conditions on the right of an alien to remain in the United States which are in violation of said constitutional rights.

E. The petitioner has been ordered deported notwithstanding the following finding by the Board of Immigration Appeals: "We find that the evidence of record does not estalbish that the respondent personally believed in or advocated the overthrow of the Government of the United States by force or violence."

F. The statute as construed and applied against the petitioner does not provide a sufficient rule or standard of conduct.

14. The said warrant for the petitioner's deportation was issued and served upon him and he was taken into custody in violation of paragraph three of Section 9 of Article I of the Federal Constitution in that the amendment of June 28, 1940 of the Act of October 16, 1918, as amended, is an ex post facto law as written and more particularly as construed and applied to the petitioner in that the petitioner was no longer a member of the Communist Party of the U. S. A. at the time of the enactment of said amendment of June 28, 1940, under and by virtue of which amendment past membership in organizations proscribed by the said Act of October 16, 1918, as amended, was sought to be constituted an independent ground for deportation.

15. The said arrest, detention, restraint and imprisonment of petitioner denies and deprives petitioner of due process of law, in violation of the Fifth Amendment to the Constitution of the United States, in that:

A. The 1940 amendment to the Deportation Law pursuant to which the charges herein made were sustained

1920 and Act of June 28, 1940, 8 U. S. C. 137), as applied to petitioner, who ceased to be a member of the Communist Party of the U. S. A. in 1939 is in violation of the Fifth Amendment in that it is a deprivation of fundamental rights based upon conduct antedating the penalizing statute.

B. The proceeding should not have been reopened after the hearing of June 30, 1947, as all the evidence thereafter introduced was or could have been in the possession of the Government prior thereto and no good cause existed for reopening the said hearing other than to introduce cumulative evidence and such cause could justify reopening without end. The Government cannot appropriately reopen a hearing merely to introduce cumulative evidence to harass a respondent in deportation proceedings.

C. The reopened hearing on the new lodged charges was not conducted in accordance with the requirements of the Administrative Procedure Act, all in violation of law in that the official presiding at such hearing on such charges was not appointed in accordance with Section 11 of the Administrative Procedure Act and in addition had previously had prosecutive functions in the same proceeding and was at all times subordinate to and under the control of the Commissioner of Immigration and Naturalization, who initiated and pressed the charges against the petitioner.

D. The original hearings on October 15, 1946 and January 30-31, 1947 were conducted by a single inspector, Gilbert Zimmerman, acting both as presiding and examining inspector so that the function both of judge and prosecutor were embodied in one and the same individual.

E. The said inspector, Gilbert Zimmerman, not only at the original hearings in 1946 and 1947, but more particularly at the reopened hearings in 1948, asked the respondent and particularly his witness a multitude of questions and even interrupted and interfered with answers given, and took upon himself thereby the functions of a prosecutor rather than a judge.

16. The warrant for the petitioner's deportation was issued and served upon him and he was taken into custody in violation of the Federal Constitution in that said warrant orders his deportation to Greece, a country to which,

if he is sent, he will be sent to his death. This Court should take judicial notice of the growing number of executions of persons for political beliefs by the present government of Greece. The deportation to Greece of a person for membership, past or present, in the Communist Party of the U. S. A. is cruel and unusual punishment in violation of the Eighth Amendment to the Federal Constitution.

17. The respondent herein, in executing the warrant for petitioner's deportation and in taking him into custody is acting without authority in law and in violation of the Federal Constitution.

18. The petitioner therefore avers that he is now in custody at Ellis Island awaiting deportation to Greece contrary to the provisions of the laws of the United States in such cases made and provided, and to the guarantees of the Federal Constitution, and upon a record of hearing which fails to disclose any substantial basis by which authority is vested in the respondent to execute such a final warrant and order of deportation, and that the petitioner is in imminent danger of the loss of the right to remain in the United States with his citizen wife and two native born children, which right he acquired as a child in 1916 by virtue of his legal entry under the provisions of the Immigration laws of the United States.

19. The petitioner filed a petition for naturalization in this Court on the 28th day of December 1944, which said petition is still pending in this Court.

20. Hitherto an application for review under the Administrative Procedure Act was submitted. The decision of Honorable WILLIAM BONDY was announced in the Law Journal this morning. In his opinion Judge BONDY suggests that the remedy of writ of habeas corpus is speedy and for that reason should be resorted to in this case. Accordingly, an application is made for a forthwith return to the writ, as the man has been in custody since his arrest on May 20.

21. On information and belief, the cause of pretense of the restraint and imprisonment of the petitioner is as

aforesaid, and petitioner is not imprisoned or detained by virtue of any process of mandate issued by any court of the United States or any judge thereof, nor is he committed or detained by virtue of a final judgment or decree of any competent tribunal made in a special proceeding instituted for any cause or by virtue of execution or process issued upon a judgment, decree or final order other than as aforesaid, and the attempt on the part of the Attorney General to detain him is unfair.

WHEREFORE, your petitioner prays that this Court may proceed in a summary way to determine the facts in this case in that regard and the legality of the imprisonment, restraint and detention of the petitioner, and thereupon to dispose of the petitioner as law and justice may require, and for such other and further relief as to the Court may seem just and proper.

Dated: New York, July 1, 1949.

PETER HARISIADES
Petitioner

CAROL KING
Attorney for Petitioner

Proposed Amended Petition Annexed to Affidavit of Carol King

STATE OF NEW YORK,
COUNTY OF NEW YORK, } ss.:

CAROL KING, being duly sworn, says: I am one of the attorneys for the petitioner herein. I have read the foregoing petition, and the facts therein stated are true of my own knowledge; and as to the matters therein stated to be alleged upon information and belief, I believe said petition to be true. The sources of my opinion and the grounds for my belief are the records in this case and conversations with the petitioner.

The reason why this verification is made by me rather than by the petitioner personally is that the petitioner is in custody at Ellis Island, which makes it very difficult to have this petition signed personally.

I am authorized to sue out the writ of habeas corpus herein and to sign and swear to the petition for such writ. Such authorization is in writing and reads as follows:

"May 21, 1949

I hereby authorize my attorney, Carol King, to sue out a writ of habeas corpus in my behalf and to sign and swear to the petition for such writ and any and all other papers that she may deem necessary.

(Signed) PETER HARISIADES"

CAROL KING

Sworn to before me this
1st day of July 1949.

Affidavit of Assistant U. S. Attorney John J. Donovan, Jr., in Opposition to Preceding Motion

[Same Title]

State of New York,
County of New York,
Southern District of New York,

John J. Donovan, Jr., being duly sworn, deposes and says:

He is an Assistant United States Attorney for the Southern District of New York and that he is familiar with the proceedings heretofore had herein.

On March 2, 1950, the above-captioned relator, by his attorney, obtained an order from District Judge Edward A. Conger requiring the respondent to show cause why—

(a) the petition for writ of habeas corpus, verified July 1, 1949, should not be amended *nunc pro tunc;*

(b) the said writ of habeas corpus should not be reargued; and

(c) upon such reargument, the said writ of habeas corpus should not be sustained.

In opposition to the foregoing, your deponent respectfully alleges and shows as follows:

A warrant for the deportation of the above-captioned relator was issued on September 16, 1948, pursuant to an order of deportation made on the same day under Title 8, United States Code, Section 137(g) by the Assistant Commissioner, Immigration and Naturalization Service. The warrant recited as grounds for the relator's deportation, among others, that he was a member of an organization which advocates and teaches the overthrow of the Government of the United States by force and violence. Following further proceedings before the Board, the relator was taken into custody on May 20, 1949.

On July 1, 1949 the relator sued out a writ of habeas corpus which was dismissed by an order of this Court dated February 20, 1950. Following the notice of an appeal on the same day, the relator obtained a stay of deportation pending appeal and was released on bail.

Affidavit of Assistant U. S. Attorney John J. Donovan, Jr., in Opposition to Preceding Motion

In opposition to the relief sought by the relator in the instant application, your deponent respectfully urges that this Court is without jurisdiction to entertain such an application. The filing of a notice of appeal transfers jurisdiction to the Appellate Court (Rule 73-A Federal Rules of Civil Procedure), (*Miller* v. *United States*, 114 F. (2d) 267, *cert. denied*, 313 U. S. 591). It has long been a well-settled rule that after a notice of appeal has been filed "the subject matter and all matters connected therewith are removed to the Appellate Court and placed under its control." *Roberts* v. *Metropolitan Life Insurance Company*, 94 F. (2d) 277, *cert. denied*, 303 U. S. 660. As the Court pointed out in *Weston Wheel-Scraper Co.* v. *Drinnen*, 79 Fed. 820, the appeal cuts off such proceedings as a rehearing and deprives the trial court of jurisdiction to allow the pleading to be amended and further proof introduced.

As the Court stated in the *Drinnen* case, *supra*—

> "The purpose of the motion is to open up and change the decree appealed from and therefore deals with questions in the case now within the sole jurisdiction of the Circuit Court of Appeals",

citing *Smith* v. *Vulcan Iron Works*, 169 U. S. 518.

In view of all the foregoing, your deponent respectfully prays that relator's application be in all respects denied.

Sworn to before me, this
13th day of March 1950.

JOHN J. DONOVAN, JR.

Order to Show Cause Why Appeal Should Not Be Withdrawn

UNITED STATES DISTRICT COURT,

SOUTHERN DISTRICT OF NEW YORK.

[SAME TITLE]

Upon the annexed affidavit of Carol King, verified the 27th day of March 1950 and upon all the papers and proceedings heretofore had herein,

Let the respondent show cause at a motion part of this Court on the 28th day of March 1950, in Room 506 of the United States Court House, Foley Square, New York City, at 10:30 o'clock in the forenoon of that day or as soon thereafter as counsel can be heard why (a) the notice of appeal heretofore filed herein should not be withdrawn and (b) why the petitioner should not be continued enlarged on bail pending the determination of Honorable Vincent L. Leibell of the rehearing on his petition for writ of habeas corpus.

Let the relator have such other further and different relief as to this Court may seem just and proper.

Sufficient reason appearing therefor, service of a copy of this order to show cause and the annexed affidavit of Carol King on the United States Attorney for the Southern District of New York, attorney for the respondent, on or before the 27th day of March 1950 is sufficient.

Dated: New York, March 27, 1950.

VINCENT L. LEIBELL,
U. S. D. J.

Affidavit of Carol King, in Support of Preceding Motion

UNITED STATES DISTRICT COURT,

SOUTHERN DISTRICT OF NEW YORK.

[SAME TITLE]

STATE OF NEW YORK, }
COUNTY OF NEW YORK, } SS.:

CAROL KING, being duly sworn, says: I am one of the attorneys for Peter Harisiades, the relator herein, and together with Isidore Englander, Esq., have been in charge of this proceeding since or about the date of the service of the warrant of arrest on May 2, 1946.

On the 20th day of February 1950 an order dismissing the writ of habeas corpus heretofore sued out herein was made by Honorable Vincent L. Leibell and entered in the United States District Court for the Southern District of New York. An appeal was taken on that day, and an order was thereafter entered releasing the relator-appellant on bail pending the disposition of the said appeal, provided the record and brief were filed in the Court of Appeals on or before the 14th day of April 1950.

Because of the decision on the same date of February 20, 1950 of the United States Supreme Court in the *Wong Yang Sung* case, an order to show cause was applied for and secured for rehearing and reconsideration, which has been referred to Honorable Vincent L. Leibell.

The United States Attorney in contesting the right for such rehearing and reconsideration has argued that the District Court for the Southern District of New York no longer has jurisdiction because of the appeal filed on the said 20th day of February 1950, which is now pending in the Court of Appeals for the Second Circuit.

Your deponent on behalf of the petitioner herein now asks that this Court permit the withdrawal of the said notice of appeal so that the matter may be wholly within the jurisdiction of this Court, and more particularly of Hon. Vincent L. Leibell, one of the Judges thereof.

Petitioner's attorneys have to and including the 28th day of March 1950 wihin which to present their brief on the rehearing to Hon. Vincent L. Leibell, before whom the

matter is now pending and has hitherto been argued, and it is essential in connection with that application that this Court consider the withdrawal of the notice of appeal on or before that date so that Judge Leibell may decide the question without any limitation as to his jurisdiction because the matter is pending on appeal.

Because of the delay incident to this application for rehearing it will be quite impossible for the appeal papers to be filed in the Court of Appeals for the Second Circuit on or before the 14th day of April 1950. Accordingly deponent asks that the petitioner herein be continued enlarged on bail with appropriate recognizance pending the hearing and disposition of the application for rehearing now pending before Hon. Vincent L. Leibell, or in the alternative that appropriate bail be posted with the Immigration and Naturalization Service for the continued enlargement of said petitioner on bail.

The petitioner's family is entirely dependent upon him for support and his incarceration would work an unnecessary hardship not only on the petitioner but on his American citizen wife and native born children. If the petitioner was accorded bail on appeal a fortiori he is entitled to bail where the disposition of the writ may be in his favor, especially as Honorable Vincent L. Leibell had accorded him bail pending the original petition of the writ of habeas corpus.

No previous application for this or any similar relief has been made to this or any other Court.

WHEREFORE your deponent prays that this Court may permit the withdrawal of the notice of appeal and the continuance of the petitioner on bail, and if it should seem appropriate the referral of this application for consideration and determination to Hon. Vincent L. Leibell, who now has before him for consideration and decision the application for rehearing upon the writ of habeas corpus heretofore issued herein; and for such other and further relief as to this Court may seem just and proper.

CAROL KING

(Sworn to March 27th 1950.)

Affidavit of Assistant U. S. Attorney John J. Donovan, Jr., in Opposition to Preceding Motion

UNITED STATES DISTRICT COURT,

SOUTHERN DISTRICT OF NEW YORK.

[SAME TITLE]

STATE OF NEW YORK,
COUNTY OF NEW YORK, } ss.:
SOUTHERN DISTRICT OF NEW YORK,

JOHN J. DONOVAN, JR., being duly sworn, deposes and says he is an Assistant United States Attorney for the Southern District of New York and is familiar with the proceedings heretofore had herein. The relator, by his attorney, on March 27, 1950, obtained a show cause order from District Judge Vincent L. Leibell, inquiring;

(a) Why the notice of appeal heretofore filed herein should not be withdrawn, and

(b) Why the petitioner should not be continued enlarged on bail pending the determination by Judge Leibell of the rehearing on his petition for a writ of habeas corpus.

In opposition to the foregoing, your deponent respectfully alleges and shows as follows:

On February 20, 1950, this Court entered an order dismissing a writ of habeas corpus brought by the relator herein. On the same day, the relator filed a notice of appeal in the United States Court of Appeals for the Second Circuit. Subsequently, and on March 1, 1950, the relator, by his attorney, obtained an order to show cause seeking to amend the original writ of habeas corpus, asking for reargument of the writ, and upon such argument, sustaining the writ. This latter motion, seeking an amendment of the original petition, was based upon the fact that the Supreme Court of the United States, *In the Matter of Wong Yang Sung* v. *McGrath*, delivered an opinion on February 20, 1950, interpreting the Administrative Procedure Act in so far as it affected Immigration and Naturalization cases. Harisiades sought to show that in accordance with the rulings in the *Sung* case, he was entitled to a rehearing in accordance with the terms of the aforesaid Administrative Procedure Act.

Your deponent submitted an affidavit and a memorandum of law in opposition to the relator's application. In your deponent's affidavit in opposition, I pointed out that

Affidavit of Assistant U. S. Attorney John J. Donovan, Jr., in Opposition to Preceding Motion

the District Court was without jurisdiction to entertain an application to amend the proceedings, since by the filing of the notice of appeal, jurisdiction was transferred to the Appellate Court.

The relator now seeks by the instant order to show cause:

(a) Leave to withdraw the notice of appeal

(b) To permit the relator Harisiades, to be enlarged on bail pending the determination by this Court of the application for a rehearing.

Rule 73a of the Federal Rules of Civil Procedure, which concerns itself with appeals, provides that after the filing of a notice of appeal, where an appeal has not been docketed, "the Court may dismiss the appeal upon motion and notice by the appellant". There is no provision in this section for "leave to withdraw an appeal in distinction to a judicial determination dismissing the appeal".

While your deponent admits that many serious questions connected with possible interpretations of the Administrative Procedure Act may be here involved, nevertheless your deponent believes the relator's remedy would lie in a new writ based on the new allegations which the relator now seeks to tack on to the original petition.

At this point it may be well to state the relator should actually seek to amend his traverse rather than his petition since it is this foregoing pleading which places the causes of issue.

Your deponent feels that since there is a decision dismissing the original writ, together with an extensive scholarly and exhaustive opinion delivered by the Court, it does not seem practical to either upset this entire holding or to integrate it with entirely alien issues, where such action would result in presenting a confused record relegating to extensive opinion hereinabove referred to to the sidelines. In the event that the courts here see fit to deny on the merits, relator's application to amend the petition, the relator has the right to appeal and could later move to consolidate this appeal with the appeal from the dismissal of the original writ.

In view of all of the foregoing, your deponent respectfully prays that the relator's application be in all respects denied.

JOHN J. DONOVAN, JR.,
Assistant U. S. Attorney.

(Sworn to March 30th, 1950.)

Supplemental Affidavit of Lester Friedman, in Opposition to Preceding Motion

UNITED STATES DISTRICT COURT,

SOUTHERN DISTRICT OF NEW YORK.

[SAME TITLE]

STATE OF NEW YORK, }
COUNTY OF NEW YORK, } ss.:

LESTER FRIEDMAN, being duly sworn, deposes and says that he is an attorney in the office of the District Counsel, New York District, Immigration and Naturalization Service, United States Department of Justice, and in his official capacity is familiar with the proceedings heretofore had herein, and has access to the files and records of the Immigration and Naturalization Service kept in the regular course of its business. That the facts hereinafter set forth are based upon the contents of the files and records of the Immigration and Naturalization Service.

On May 2, 1946, deportation proceedings were initiated against the relator by the service upon him of an immigration warrant of arrest directing him to hsow cause why he should not be deported. On the same day, the relator executed a parole agreement and was released from custody thereunder.

On the same day, the relator was notified in writing that he had been served with and furnished a copy of the warrant of arrest and that he has been released in order to afford him an opportunity to arrange for his defense at a subsequent hearing which would be given to determine why he should not be deported from the United States. In this communication he was also advised of his right to counsel and the various rights and privileges were fuliy explained.

On or about May 3, 1946, the clerical processing of the case in preparation for hearing was begun by the Immigration and Naturalization Service to gather the necessary evidence and files whichwould be required at the time of hearing. Such processing continued through the following three months.

Second Supplemental Affidavit of Lester Friedman, in Opposition to Preceding Motion

On May 2, 1946, the files in the Immigration and Naturalization Service further indicate that a formal notice of appearance was filed in behalf of the relator by Carol King as attorney.

On June 25, 1946, the case was assigned to Gilbert Zimmerman as presiding inspector.

On August 28, 1946, a letter was addressed to the relator notifying him to appear for hearing on September 12, 1946, at 70 Columbus Avenue, New York, N. Y. At the request of Carol King, attorney for the relator, the aforesaid hearing was adjourned to September 25, 1946, and pursuant to the request of the relator's attorney, the said hearing was again adjourned until October 15, 1946, at which time the relator appeared with counsel for hearing.

LESTER FRIEDMAN

Sworn to before me this
day of March, 1950.

Second Supplemental Affidavit of Lester Friedman, in Opposition to Preceding Motion

UNITED STATES DISTRICT COURT,

SOUTHERN DISTRICT OF NEW YORK.

[SAME TITLE]

STATE OF NEW YORK,
COUNTY OF NEW YORK,
SOUTHERN DISTRICT OF NEW YORK, } ss.:

LESTER FRIEDMAN, being duly sworn, deposes and says:

That he is an attorney in the Office of the District Counsel, Immigration & Naturalization Service, New York District, and in his official capacity is familiar with the proceedings heretofore had herein and with the official files and records of the Immigration & Naturalization Service, and in particular with the New York District file relating to Peter Harisiades, the relator herein.

Attached hereto and made a part hereof with the same effect as if set forth herein in full are photostatic copies

of papers contained in the Immigration file No. 99183/146 pertaining to the deportation proceedings instituted against the relator.

These documents consist of the following papers:

1. A notice addressed to Peter Harisiades, dated May 2, 1946, consisting of three pages, the receipt of the original of which is contained on page 3 thereof.

2. A signed parole agreement executed by Peter Harisiades on May 2, 1946.

3. A notice of appearance dated May 2, 1946, submitted by Carol King as attorney for Peter Harisiades.

4. Hearing notice addressed to Peter Harisiades, with copy to his attorney, dated August 28, 1946.

The documents referred to above are self-explanatory, except that the fourth item contains various ink notations which may require additional explanation. The original hearing notice directed the subject thereof to appear for hearing on September 12, 1946. This date was stricken out in ink and the following notation added in ink: "Wednesday, Sept. 25/46 at 9:30 postponed at request of Att'y Carol King (Sept. 4/46)". This notation was intended to indicate the adjourned date of the hearing and the reason for the adjournment. A further notation encircled on the left side of the page shows "9:30 Tuesday, Oct. 15/46". This notation is intended to indicate a further adjournment for the hearing. Although the reason for such adjournment is not specifically shown, it is assumed to be the same reason for which the original adjournment was granted in the absence of some additional explanation.

LESTER FRIEDMAN.

Sworn to before me this
31st day of March, 1950.

JOHN J. OLEAR, JR.
Notary Public for the State of New York

No. 41-2952400
Qualified in Queens County
Certificates Filed With Queens and
New York County Clerks and Registers
Term Expires March 30, 1951

Exhibits Annexed to Foregoing Affidavit

U. S. DEPARTMENT OF JUSTICE
Immigration and Naturalization Service
70 Columbus Avenue
New York 23, N. Y.

3-817
Rev. 11/1/44

File No. 99183-146
Date: May 2, 1946

Peter Hagelias or Harisiades
392 E. 4th St.
Bklyn, N. Y.

Dear Sir or Madam:

You have been served with and furnished a copy of the warrant of arrest, charging you with being unlawfully in the United States. You have been released today in order to give you an opportunity to arrange for your defense at a hearing which will be subsequently given to you to determine why you should not be deported from the United States. At this hearing you may, if you desire, be represented by an attorney or other qualified representative, at your own expense.

In connection with these proceedings the law now provides a means by which you may possibly adjust your immigration status instead of being deported. This may be done in one or two ways depending upon the circumstances in your case:

1) If your deportation would result in a serious hardship to either your spouse, parent or minor child, who are citizens or legal residents of the United States, the Attorney General is authorized to suspend your deportation so that it will not be necessary for you to depart from the United States. Following a hearing, and certain other preliminaries, if you are found qualified, a record may be created showing you to have been lawfully admitted to the United States. Thereafter, this record may be used as a basis for acquiring United States citizenship.

2) If you do not qualify for or do not desire the foregoing privilege, you may apply for the privilege of

leaving this country voluntarily instead of being deported. In connection therewith, the additional privilege of preexamination may be granted. Under this procedure, if authorized, it will be necessary for you to leave the United States and proceed to Canada to apply for a visa at a U. S. Consulate. Re-admission to the United States under the same status which you had, is guaranteed if you do not succeed in obtaining an immigration visa.

In applying for either of these privileges you must prove that you have been a person of good moral character for the past five years, and that you are not deportable on criminal or other related grounds.

In order that you may take advantage of either of these privileges, it is absolutely essential that you immediately comply with the following items which have been marked with an "X":

I-255

1. ( ) Fill out the attached Forms I-256 and I-35. Sign and swear to all of these before a notary public or other person authorized to administer oaths. Full and complete answers are essential. Check marks, unless called for in the forms, are not acceptable.

2. (X) Submit civil BIRTH CERTIFICATE of ( ) husband, ( ) wife, (2) children, ( ) .....

3. (X) Submit your civil MARRIAGE CERTIFICATE.

4. ( ) Submit DOCUMENTARY EVIDENCE OF TERMINATION OF PRIOR MARRIAGE(s), (if any), of spouse or self. ( ) Divorce Decree(s) ( ) Death Certificate(s)

5. (X) Submit AFFADAVITS OF TWO WITNESSES, preferably United States citizens who are not related to you, as to your moral character and reputation for the *past five years*. These witnesses must have seen you frequently during this time. (Affidavit forms attached.)

6. (X) Submit AFFIDAVITS FROM YOUR EMPLOYER(s) for the *past five years* as to your moral character, period(s) of employment, and salary.

7. (X) Submit CERTIFICATE OF GOOD CONDUCT, to be obtained at Police Headquarters in the city or cities where you have resided for the past five years. (All New York City residents should apply personally at Police Headquarters, 240 Centre Street).

All of the necessary documents must be furnished in triplicate. These documents may be duly certified copies or photostats. If the photostats are uncertified, then submit the original documents for comparison with the triplicate photostats. Originals will be returned.

Any and all birth records, marriage certificates, divorce decrees or other documents which are submitted in connection with your case and which are in a foreign language, should be translated into English by a competent translator, the correctness and accuracy of the translation to be subscribed and sworn to by the translator before a Notary Public or other officer authorized to administer oaths. Both the original documents and the translations thereof must be submitted in triplicate.

If it is your desire to be represented by counsel, or otherwise, it is requested that you have your representative file a notice of appearance in your behalf. You will be directed to appear for a hearing after your documents have been submitted.

You are further cautioned to comply with the terms of the release agreement, copy of which has been furnished to you.

Unless you submit the foregoing documents by..... or unless an extension is granted for a good reason, we shall be compelled to pursue some other course of action in your case.

Very truly yours,

W. F. WATKINS
District Director, New York District

By: P. A. ESPERDY
Chief, Expulsion Section

Receipt is hereby acknowledged of original of this letter.

PETER HARISIADES
(Alien's signature)

H. L. WITS
(Interviewer's signature)

Exhibits Annexed to Foregoing Affidavit

UNITED STATES DEPARTMENT OF JUSTICE

BOARD OF IMMIGRATION APPEALS

and

IMMIGRATION AND NATURALIZATION SERVICE

New York, N. Y.
May 2, 1946
File Number: 99183/146

In re: Peter Harisiades

I hereby enter my appearance as attorney for (or representative of): Peter Harisiades, or as associated with .....the attorney of record, and my appearance is at his request.

(Check appropriate item, if applicable):

I have been admitted to practice before the Board of Immigration Appeals and the Immigration and Naturalization Service, and my appearance is—

( ) 1. Without monetary or other remuneration.

( ) 2. As an accredited diplomat or consular representative in the United States of the Government of .....and my appearance is with the consent of the party above named.

( ) 3. As a non-resident of the United States, namely in.....and I am a member in good standing of the bar of the courts of that jurisdiction.

( ) 4. (If other situation, explain fully.)

CAROL KING (*Signature*)
270 Broadway (*Address*)
New York City 7

(If appearance is in behalf of a religious, charitable, or similar organization, state the organization represented.)

Exhibits Annexed to Foregoing Affidavit

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service
70 Columbus Avenue
New York 23, New York

3-654

12/31/43

File No. 99183-146

Date: May 2, 1946

RELEASE ON OWN RECOGNIZANCE

In consideration of my release on my own recognizance during the deportation proceedings pending against me, I promise to appear at the office of the Immigration and Naturalization Service, 70 Columbus Avenue, New York 23, New York, whenever requested to do so, and to keep that office informed of any change in my address.

I also agree to report to the Alien Parole Section, 70 Columbus Avenue, New York 23, New York, IN WRITING, every 30 days, my place of residence and employment address.*

I understand that failure to comply with this agreement may result in my being taken into custody.

PETER HARISIADES
Alien's signature)
392 E. 4th St.
Brooklyn, N. Y.
(Address)

*When reporting, address your letter to District Director, 70 Columbus Avenue, New York 23, N. Y., attention of Alien Parole Section, and refer to the file number appearing in the upper right hand corner.

Distribution:

( ) Alien

(X) Alien Parole Section

(X) File

Exhibits Annexed to Foregoing Affidavit

UNITED STATES DEPARTMENT OF JUSTICE

Immigration and Naturalization Service
70 Columbus Avenue
New York 23, New York

3-616
Revised
7/1/45

In replying
please refer to
this file number:
99183/146 HU

August 28, 1946

Mr. Peter Harisiades
392 East 4th Street
Brooklyn, N. Y.

Dear Sir:

In connection with your immigration status, it is important that you appear at the above address, Expulsion Section, 8th floor, on Thursday, September 12, 1946 at 9:30 a.m. for a hearing in your case. You should bring with you your

Wednesday, Sept 25/46 at 9:30
postponed at request of atty
Carol King (Sept 4/46)

9:30 Tuesday Oct 15/46

At the hearing you will be given an opportunity to offer any relevant evidence you may have in support of your case. You may be represented by counsel of your own selection, at your own expense.

Do not fail to have in your possession your Alien Registration Receipt Card, Alien Enemy Certificate of Identification and Selective Service Registration and Classification Cards, if any. You should also bring with you originals of any copies of marriage certificates, birth or death certificates, divorce decrees, or employers' letters you may have previously submitted.

If you have not already done so, you should bring with you a Certificate of Good Conduct to be obtained at Police Headquarters in the city or cities where you have resided for the past five years. (If you are a resident of New York City, you should apply at Police Headquarters, 240 Centre Street, at least five days before the date set for your hearing.)

This letter will serve as your pass at the 62nd Street entrance to the building.

Very truly yours,

W. J. ZUCKER
Actg. District Director, New York District

By: P. A. ESPERDY
Chief, Expulsion Section

GZ:lmc

CC to Carol King, Attorney-at-law,
220 Broawway, New York, N. Y.

Opinion of Leibell, J., Denying Motion

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

[SAME TITLE]

The petitioner herein sued out a writ of habeas corpus on July 1, 1949, for a review of certain proceedings of the Bureau of Immigration and Naturalization which had resulted in the issuance of a warrant of deportation on December 16, 1948. Argument on the writ was had before me on July 19, 1948. Final briefs were filed thereon in September, 1949. The writ was dismissed for reasons stated in an opinion of this Court filed February 9, 1950. An order on the decision was entered on February 20, 1950. On the same day the petitioner filed a notice of appeal to the Court of Appeals, Second Circuit, and petitioner was admitted to bail by this Court pending the determination of the appeal.

Also on February 20, 1950, the Supreme Court of the United States rendered an opinion in *Wong Yang Sung* v. *McGrath* (No. 154—October Term, 1949), holding that the Administrative Procedure Act of June 11, 1946, 5 U. S. C. §§1001 et seq. was applicable to deportation proceedings and that such proceedings "must conform to the require-

ments of the Administrative Procedure Act if resulting orders are to have validity".[1]

Thereafter, on March 2, 1950 the petitioner through an order to show cause, moved for permission to amend nunc pro tunc the original petition for a writ of habeas corpus by adding sub-paragraphs C, D and E to paragraph 15 thereof;[2] to reargue the writ; and to have the writ sustained. The grounds asserted in support of the motion were that the deportation proceeding was conducted by a Presiding Inspector who was not appointed in accordance with Section 11 of the Administrative Procedure Act and who conducted the proceedings as an examining inspector, performing mixed prosecutive and judicial or hearing functions, in violation of Section 5 of the Administrative Procedure Act.[3] The Government opposed the motion, con-

1. It had theretofore been held by the Court of Appeals of this Circuit that the Administrative Procedure Act did not apply to deportation proceedings: *Azzollini* v. *Watkins*, 172 F. (2d) 897 (C. C. A. 2nd, 1949); *Lee Wo Shing* v. *Watkins*, 175 F. (2d) 194 (C. C. A. 2nd, 1949).

2. "C. The reopened hearing on the new lodged charges was not conducted in accordance with the requirements of the Administrative Procedure Act, all in violation of law in that the official presiding at such hearing on such charges was not appointed in accordance with Section 11 of the Administrative Procedure Act and in addition had previously had prosecutive functions in the same proceeding and was at all times subordinate to and under the control of the Commissioner of Immigration and Naturalization, who initiated and pressed the charges against the petitioner.

"D. The original hearings on October 15, 1946 and January 20-31, 1947 were conducted by a single inspector, Gilbert Zimmerman, acting both as presiding and examining inspector so that the function of judge and prosecutor were embodied in one and the same individual.

"E. The said inspector, Gilbert Zimmerman, not only at the original hearings in 1946 and 1947, but more particularly at the reopened hearings in 1948, asked the respondent and particularly his witness a multitude of questions and even interrupted and interfered with answers given, and took upon himself thereby the functions of a prosecutor rather than a judge."

3. Section 5 of the Administrative Procedure Act [5 U. S. C. § 1004] provides in subdivision (c) thereof: "SEPARATION OF FUNCTIONS.—The same officers who preside at the reception of evidence pursuant to section 7 shall make the recommended decision or initial decision required by section 8 except where such officers become unavailable to the agency. Save to the extent required for the disposition of ex parte matters as authorized by law, no such officer shall consult any person or party on any fact in issue unless upon notice and opportunity for all parties to participate; nor shall such officer be responsible to or subject to the supervision or direction of any officer, employee, or agent engaged in the performance of investigative or prosecuting functions for any agency. No officer, employee, or agent engaged in the performance of investigative or prosecuting functions for any agency in any case shall, in that or a factually related case, participate or advise in the decision, recommended decision, or agency review pursuant to section 8 except as witness or counsel in public proceedings. * * *"

[Continued on page 968]

tending that the filing of the notice of appeal barred the District Court from considering the motion and that the deportation proceeding in this case was initiated or commenced prior to the effective dates of the allegedly applicable sections of the Administrative Procedure Act,[4] and accordingly was specifically excepted from the provisions of that Act.

The petitioner brought on a second motion, on March 28, 1950, for an order permitting the relator to withdraw the notice of appeal filed February 20, 1950, and thus remove any jurisdictional question. The Government opposes that motion on the grounds that the District Court is without jurisdiction to entertain it; that the application to withdraw the notice of appeal is improper; and that the whole issue should be brought on by a petition for a new writ of habeas corpus.

The earlier rulings[5] that the filing of a notice of appeal deprived the District Court of authority to proceed any further in the matter, except in aid of the appeal or under Rule 60(a) relating to clerical mistakes, until it has received the mandate of the appellate court, have been modified by an amendment to Rule 73(a), *F. R. C. P.* which provides:

> "If an appeal has not been docketed, the parties, with the approval of the district court, may dismiss the appeal by stipulation filed in that court, or that court may dismiss the appeal upon motion and notice by the appellant."

[Continued from page 967]

Section 11 [5 U. S. C. § 1010] provides that competent examiners shall be appointed by and for each agency who "shall be assigned to cases in rotation so far as practicable and shall perform no duties inconsistent with their duties and responsibilities as examiners. Examiners shall be removable by the agency in which they are employed only for good cause established and determined by the Civil Service Commission (hereinafter called the Commission) after opportunity for hearing and upon the record thereof. Examiners shall receive compensation prescribed by the Commission independently of agency recommendations or ratings and in accordance with the Classification Act of 1923, as amended. * * *"

4. Section 12 of the Act, 5 U. S. C. § 1011, provides:—"This Act shall take effect three months after its approval except that Sections 7 and 8 shall take effect six months after such approval, the requirement of the selection of examiners pursuant to section 11 shall not become effective until one year after such approval and no procedural requirement shall be mandatory as to any agency proceeding initiated prior to the effective date of such requirement." The Act was approved June 11, 1946.

5. *Miller* v. *United States*, 114 F. (2d) 267 (C. C. A. 7th, 1940); *Fiske* v. *Wallace*, 115 F. (2d) 1003 (C. C. A. 8th, 1940) cert. den. 314 U. S. 663; *Notes of Advisory Committee on Amendments to the Federal Rules of Civil Procedure*, Rule 73(a).

No appeal has been "docketed" and an application for leave to dismiss having been made, on notice, by the appellant, this Court has jurisdiction to entertain it.

The situation here presented is this: After the February 9, 1950 decision of this Court in the habeas corpus proceedings, and before the record on appeal was docketed, in fact on the same day the notice of appeal was filed, a decision of the Supreme Court supervened which required an examination of its applicability to the facts in the instant case. In such circumstances it is proper that the United States Court of Appeals for this Circuit have a complete record available, so that it may review the matter in its entirety rather than piecemeal. A recent case in this Court presented a similar problem. In *American-Hawaiian SS Co.* v. *United States* (The Alaskan). Ad. 133-397, S. D. N. Y., when after an appeal was docketed, the Court of Appeals denied a motion for a remand on the grounds of a supervening Supreme Court decision, but granted the movant leave to make application to the District Court to consider the merits of the application. A similar approach to the problem in the case at bar seems proper.

In order to determine whether the petitioner's motion to withdraw the appeal should be granted, the Court will first consider the merits of the original application for leave to amend the petition for the writ of habeas corpus.

A brief chronology of the various steps in the deportation proceeding and a resume of the charges is necessary to highlight the points advanced by petitioner. On April 12, 1930, a warrant of arrest of the alien, Peter Harisiades, was issued by an Assistant to the Secretary of Labor on the grounds that the petitioner had been found in the United States in violation of the Act of October 16, 1918, as amended by the Act of June 5, 1920, for the reason:

> "That he is a member of or affiliated with an organization, association, society or group that believes in, advises, advocates, or teaches the overthrow by force or violence of the Government of the United States or of all forms of law."[6]

6. In effect at that time was Section 2 of the Act of 1918, 40 *Stat.* 1012 amended 1920, 41 *Stat.* 1008 providing for deportation of "* * * any alien who, at any time after entering the United States, is found to have been at the time of entry or to have become thereafter a member of any one of the classes or aliens enumerated in section one * * *". Section 1 of that Act enumerated in subdivisions (c), (d) and (e) the following classes: "(c) Aliens who believe in, advise, advocate, or teach, or who are members of or affiliated with any organization, association, society, or group, that believes in, advises, ad-

[Continued on page 970]

The following is quoted from my opinion dated February 9, 1950:

> "A search was made for him [the alien] in several states, but the 1930 warrant was not served. Meanwhile he had assumed various aliases. In 1937 he married an American citizen. He has two children. In 1943 his alien registration record was checked and later his location was ascertained; but it was not until May 2, 1946 that the warrant of deportation was served and he was taken into custody."

"On the same day, the relator was notified in writing that he had been served with and furnished a copy of the warrant of arrest and that he has been released in order to afford him an opportunity to arrange for his defense at a subsequent hearing which would be given to determine why he should not be deported from the United States. In this communication he was also advised of his right to counsel and the various rights and privileges were fully ex-

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[Continued from page 969]

vocates, or teaches: (1) the overthrow by force or violence of the Government of the United States or of all forms of law, or (2) the duty, necessity or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government, because of his or their official character, or (3) the unlawful damage, injury or destruction of property, or (4) sabotage;

(d) Aliens who write, publish, or cause to be written or published, or who knowingly circulate, distribute, print, or display, or knowingly cause to be circulated, distributed, printed, published, or displayed, or who knowingly have in their possession for the purpose of circulation, distribution, publication, or display, any written or printed matter, advising, advocating, or teaching, opposition to all organized government, or advising, advocating or teaching:

(1) the overthrow by force or violence of the Government of the United States or of all forms of law, or (2) the duty, necessity or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government, or (3) the unlawful damage, injury or destruction of property, or (4) sabotage;

(e) Aliens who are members of or affiliated with any organization, association, society, or group, that writes, circulates, distributes, prints, publishes, or displays, or causes to be written, circulated, distributed, printed, published, or displayed, or that has in its possession for the purpose of circulation, distribution, publication, issue or display, any written or printed matter of the character described in subdivision (d)."

plained.'"[6A] On the same date a formal notice of appearance in the deportation proceeding was filed by Carol King, the present attorney for the alien. On August 28, 1946 notification of a hearing on the warrant of arrest, set for September 12, 1946, was sent to the relator. Two adjournments of the hearing, to September 25, 1946 and October 15, 1946, were granted at the request of the petitioner's attorney and the hearing was finally opened on October 15, 1946, before a Presiding Inspector, Mr. Gilbert Zimmerman, who also conducted the examination of the alien. On that day in the course of the hearing the Presiding Inspector stated:

"Q. You are informed that in addition to the charge contained in the Warrant of Arrest, the following additional charges are now lodged against you.

1) That you are in the United States in violation of the Act of October 16, 1918, as amended, in that you have been found to have been after entry a member of the following class set forth in Section 1 of said Act: an alien who believes in, advises, advocates, or teaches the overthrow by force or violence of the government of the United States;

2) That you are in the United States in violation of the Act of October 16, 1918, as amended, in that you have been found to have been after entry a member of the following class set forth in Section 1 of said Act: an alien who is a member of an organization, association, society, or group that believes in, advises, advocates, or teaches the overthrow by force or violence of the government of the United States;

3) That you are in the United States in violation of the Act of October 16, 1918, as amended, in that you have been found to have been after entry a member of the following class set forth in Section 1 of said Act: an alien who is affiliated with an organization, association, society, or group that believes in, advises, advo-

6A. Affidavit of L. Friedman, Attorney, Immigration and Naturalization Service, sworn to March 17, 1950. Counsel for petitioner concedes the accuracy of the averments in this affidavit.

cates, or teaches the overthrow by force or violence of the government of the United States.

Do you understand the nature of these additional charges? A. It seems to me they are the same charges as the first one, and I repeat again that the Communist Party does not and never did advocate the violent overthrow of the United States government. The same thing holds true as far as my personal beliefs are concerned." (pp. 40-41)

On March 11, 1947 the Presiding Inspector made a report in which he stated:

> "Since respondent's Communist membership and affiliation had terminated, so far as the evidence in the record establishes, approximately seven years before the warrant of arrest was served upon him in 1946, it is evident that the charge in the warrant of arrest of present membership in, or affiliation with, a proscribed organization is not sustained by the evidence.
>
> However, upon the basis of respondent's testimony and the other evidence in the record which is hereinafter discussed, three additional charges under the Act of October 16, 1918, as currently amended, were lodged against respondent (p. 41). These additional charges, in substance, charge respondent with:
>
> (1) Past belief in, advising, advocating, or teaching the overthrow by force or violence of the Government of the United States;
>
> (2) Past membership in an organization that believed in, advised, advocated, or taught the overthrow by force or violence of the Government of the United States; and
>
> (3) Past affiliation with an organization that has believed in, advised, advocated, or taught the overthrow by force or violence of the Government of the United States." (pp. 3 and 4)

In that same report of March 11, 1947, the Presiding Inspector made certain proposed findings of fact and conclusions of law, among which were the following:

> "(4) That from 1925 to 1939 respondent was a member in good standing of the Communist Party in the

United States, an organization which, during the period from 1928 to 1939, believed in, advised and advocated the overthrow by force and violence of the Government of the United States;" (p. 63)

* * *

"(2) That under the Act of October 16, 1918, as amended, respondent is subject to deportation, in that he is found to have been, after entry, a member of the following class set forth in Section 1 of said Act: An alien who is a member of an organization, association, society, or group that believes in, advises, advocates or teaches the overthrow by force or violence of the Government of the United States;" (p. 63)

* * *

"(4) That respondent is not subject to deportation on the ground that he has been found in the United States in violation of the Act of October 16, 1918, as amended by the Act of June 5, 1920, in that he is a member of, or affiliated with an organization, association, society, or group that believes in, advises, advocates or teaches the overthrow by force or violence of the Government of the United States or of all forms of law;" (p. 64)

Thereafter, on August 5, 1947 the Commissioner of Immigration and Naturalization ordered the hearing reopened for the authentication of certain documents, the reception of additional evidence, and the lodging of additional charges. This hearing was set for September 22, 1947 and, after adjournment requested by counsel for petitioner, was held on February 18-19, 1948. Two inspectors of the Immigration Service conducted this hearing, a presiding inspector, Mr. Gilbert Zimmerman, and an examining inspector, Mr. Maurice A. Roberts. Prior to this hearing, in an affidavit verified September 17, 1947, counsel for the petitioner objected to any change in personnel (allegedly a new presiding inspector and also an examining inspector were to be named) and noted that the petitioner had consented to have Mr. Zimmerman act as both a presiding inspector and an examining inspector:

"Respondent (Harisiades) believes the present change in the personnel is due to the fact that the original inspector (Gilbert Zimmerman) in this case,

whom he consented to have act both as presiding and examining inspector, was not sufficiently prejudiced against the respondent to meet the present prevailing views of the Department of Justice and for that reason has been removed from this case."

Petitioner's counsel, in her brief on the motion for leave to amend the petition for the writ, states:

> "We do not question the personal integrity of the inspector (Gilbert Zimmerman). Nevertheless, it is clear that Section 5(c) of the Administrative Procedure Act has been violated where, as here, the same inspector was presiding and examining inspector at the deportation hearing, and where he was clearly responsible to the Commissioner of Immigration and Naturalization (5 Fed. Reg. 2108; Sec. 6 of Reorganization Plan III, and Sec. 1 of Reorganization Plan V, both effective June 1940; 5 U. S. A. 133 (t), (v), and (x)). The decision here made must accordingly be reversed upon the authority of the *Sung* decision."

The first question to be considered is whether the deportation proceeding was "initiated" prior to the effective date of Sections 7, 8 and 11 of the Administrative Procedure Act which concern procedural requirements. The deportation proceeding was initiated even before the Administrative Procedure Act became a law by presidential approval on June 11, 1946. If the date the warrant was issued (April 12, 1930) is the date on which the deportation proceeding was started (*United States* v. *Carusi*, 166 F. 2d 457, footnote 5 on p. 459) then the deportation proceeding was initiated years before the enactment of the Administrative Procedure Act. If the deportation proceeding was initiated when the warrant of arrest was executed or served, then this deportation proceeding was initiated May 2, 1946, about forty days before the Administrative Procedure Act became law. That there was a deportation proceeding pending on May 2, 1946 is further evidenced by the notice of appearance therein which petitioner's attorney filed on that date.

The attorney now argues that the proceeding was not initiated until the day the first hearing was held, October 16, 1946, and that Section 5 of the Act went into effect September 11, 1946. As hereinabove stated the notice for a

hearing was sent out August 25, 1946. The hearing was to have been held September 12, 1946. The date of the hearing was twice postponed at the request of petitioner's counsel and the first hearing was not held until October 15, 1946. There is no merit to the contention that the deportation proceeding was not initiated until October 15, 1946.

Petitioner contends that "what is of paramount significance is that the charge in the 1930 warrant was found not to have been sustained and that the deportation charges now under review were certainly not lodged before October 15, 1946, well after Section 5 of the Administrative Procedure Act went into effect". The additional charges lodged October 15, 1946 have been quoted hereinabove. In effect petitioner argues that those charges constituted the initiation of a new deportation proceeding.

The purpose of the additional charges, Nos. 2 and 3, was to recast the original charge in the language of the June 1940 amendment to Section 373 of Title 5, U. S. Code, in relation to the deportation of aliens. A ruling of the Supreme Court in Kessler, District Director of Immigration and Naturalization v. *Strecker*, 307 U. S. 22, decided April 17, 1939, had held in effect that an alien could be ordered deported only for present membership (at the time of his arrest), but not for past membership at some time after entry if he had ceased to be a member at the time of his arrest. The Congress in June 1940 amended the statute (T. 5 U. S. C., § 373) so that it specifically applied to membership in the proscribed type of organization at any time after entry, thus giving effect to the views expressed in the dissenting opinion in the *Kessler* case.[7] The warrant of arrest in the case at bar had been drawn in April 1930 and the charge in the warrant was stated in the language of the statute as then in effect. The additional charges lodged against the alien on October 15, 1946, used the language of the statute as amended in June 1940.

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7. Associate Justices McReynolds and Butler dissented in the Kesseler case, in an opinion by Justice McReynolds in which he stated:

"The construction of the statute adopted by the Court seems both unwarranted and unfortunate. If by the simple process of resigning or getting expelled from a proscribed organization an alien may thereby instantly purge himself after months or years of mischievous activities, hoped for protection against such conduct will disappear. Escape from the consequences of deliberate violations of our hospitality should not become quite so facile."

The alien came to the United States March 7, 1916 when he was 13 years old. That was his date of entry. The warrant of arrest spoke as of its own date, April 12, 1930. The additional charges Nos. 2 and 3 allege that the alien "after entry" was a member of and affiliated with an organization advocating the overthrow of the government of the United States by force or violence. The proof showed, in fact it was admitted, that the alien had been a member of the Communist Party in the United States from 1925 to October 1939. Harisiades himself recognized that there was nothing new in these additional charges lodged October 15, 1946, because he stated on the record at the time, "It seems to me they are the same charges as the first one".

The following quotation from my opinion of February 9, 1950, continues the chronological narrative:

> "Hearings were held before a presiding inspector of the Bureau of Immigration and Naturalization, on October 15, 1946 and on January 30-31, 1947. On March 11, 1947 the Presiding Inspector made a report, covering 65 pages, and recommended petitioner's deportation to Greece. The report contained proposed Findings of Fact and Conclusions of Law as to deportability. The record was forwarded to the Central Office and on May 14, 1947 the attorney for Harisiades filed exceptions to the report. On August 5, 1947 the Commissioner ordered that the hearing be reopened for the proper authentication of documents already introduced, for the reception of additional evidence, and for the lodging of certain additional charges."

On September 3, 1947 the attorney for the alien was notified by letter that the hearing was being reopened and the two further charges were set forth in the letter, verbatim. The charges were that the alien was deportable, in that:

> "(4) The Act of October 16, 1918, as amended, in that he is found to have been after entry, a member of the following class set forth in Section I of said Act: An alien who is a member of and affiliated with an organization, association, society, and group that advises, advocates, and teaches overthrow by force and violence of the Government of the United States.

(5) The Act of October 16, 1918, as amended, in that he is found to have been, after entry, a member of the following class set forth in Section I of said Act: An alien who is a member of and affiliated with an organization, association, society, and group that writes, circulates, distributes, prints, publishes, and displays, and causes to be written, circulated, distributed, printed, published and displayed, and that has in its possession for the purpose of circulation, distribution, publication, issue, and display, written and printed matter advising, advocating, and teaching the overthrow by force and violence of the Government of the United States."

After protests on the part of the alien's attorney the reopened hearing finally got under way on February 18, 1948. Mr. Zimmerman continued as the presiding inspector as the alien's attorney requested and a Mr. Roberts acted as the examining inspector.

As to these two additional charges (Nos. 4 and 5) the first of them (No. 4) was a combination of charges Nos. 2 and 3 which were lodged at the hearing of October 15, 1946, and are based on subdivision (c) of the statute as amended in June 1940 [8 U. S. C., § 137(c)]. They contained nothing new. Charge No. 5 was new to the extent that it charged that the proscribed organization (the Communist Party) of which the alien was a member and to which he was affiliated, distributed and circulated written and printed matter advocating the overthrow of the government of the United States by force and violence. It appears that charge No. 5 was suggested by certain exhibits and proof that had been received at the original hearing in October 1946 and January 1947. The distribution of subversive literature by the proscribed organization is included in subdivision (e) of the statute as amended in June 1940 [8 U. S. C., §137(e)].

The reopened hearings were held on February 18-19 and March 9-10, 1948. On June 24, 1948 the presiding inspector, Gilbert Zimmerman, made a report of 300 pages, with proposed findings and conclusions. The case then went to the Commissioner's office where the Chief Examiner reviewed it and made a report dated December 16, 1948. He concluded that the government had established all of the lodged charges and he submitted Findings of

Fact and Conclusions of Law and recommended that Harisiades be deported. He found that at least from 1925 to October 1939 Harisiades had been an active member/affiliate in good standing of the Communist Party of the United States and that during that period the Communist Party advocated the overthrow of the government of the United States and distributed printed matter so advocating. He also found that the alien had been affiliated with the Communist International during that same period 1925-1939 and that the Communist International advocated the overthrow of the government of the United States by force and violence. He further found that the alien during that period believed in the overthrow of the government of the United States by force and violence and "continues to hold the same views thereon since October 1939". He also found that during the 1925-1939 period the Communist Party of the United States was affiliated with the Communist International. The presiding inspector's conclusions of law were based on the deportation statute (T. 5 U. S. C., § 137) and he held the alien deportable because of past membership in the Communist Party, but he made a separate conclusion of law that the alien was not deportable on any ground of present membership.

The Commissioner approved and adopted the report, findings and conclusions of the Chief Examiner and endorsed them "so ordered" on December 16, 1948 and a warrant of deportation was thereupon issued. The warrant of deportation embodied the charges the Chief Examiner and the Commissioner had found sustained by ample substantial evidence. The alien appealed to the Board of Immigration Appeals. The Board of Appeals filed its opinion on May 13, 1949.

The Board of Appeals found "that during the period of respondent's membership in the Communist Party of the United States of America (1925-1939) it advocated the overthrow of the government of the United States by force and violence and it distributed printed matter which so advocated". The Board held that the record did not establish "that the respondent personally believed in or advocated the overthrow of the government of the United States by force and violence" and that since he admitted *membership* in the Communist Party of the United States the grounds of deportation based on *affiliation* were superfluous.

The Board of Immigration Appeals concluded:

> "The order of deportation will be affirmed on the grounds that after entry into the United States the

respondent became a member of an organization which advocated the overthrow by force and violence of the Government of the United States, and which distributed printed matter that so advocated."

It appears, therefore, that the charge in the original warrant of arrest that (as of the date of the warrant April 12, 1930) Harisiades was a member of an organization which advocated the overthrow by force and violence of the Government of the United States is embraced, (a) within the proposed findings and conclusions of the presiding inspector and the chief examiner, (b) within the findings and conclusions of the Assistant Commissioner, (c) within the language of the order of deportation of the Acting Commissioner of December 16, 1948, and (d) within the grounds on which the order of deportation was affirmed by the Board of Immigration Appeals on May 18, 1949 when the Boards dismissed the alien's appeal. But, as hereinabove stated, there is and has been only one deportation proceeding brought against this alien, Peter Harisiades. It was initiated either on the date the warrant was issued, April 12, 1930, or the date on which it was served, May 2, 1946. Both these dates were prior to the enactment of The Administrative Procedure Act, June 11, 1946. The additional charges lodged October 15, 1946 were in substance the same as the charge stated in the original warrant of arrest. The first (No. 4) of the second lot of two charges (Nos. 4 and 5) lodged August 7 or September 3, 1947, prior to the reopened hearings was a combination of charges Nos. 2 and 3 of October 15, 1946. Charge No. 5 was new but what it charged was membership in an organization which distributed literature which advocated the overthrow of the government of the United States. The distribution of literature of that type would be proof of the advocacy of the overthrow of the government by force and violence. Hence it was closely linked to the other charges Nos. 2, 3 and 4 and was of the same substance.

The motion for leave to amend the petition for a writ of habeas corpus is accordingly denied on the merits. In view of that determination, the motion to withdraw the notice of appeal is also denied. Settle an order accordingly on two days' notice.

Dated: April 4, 1950.

VINCENT L. LEIBELL,
United States District Judge.

Order Denying Application

At a Stated Term of the United States District Court for the Southern District of New York, at the United States Court House, Foley Square, Borough of Manhattan, City of New York, this 11th day of April, 1950.

Present:

HON. VINCENT L. LEIBELL,

United States District Judge.

PETER HARISIADES,

Relator-Appellant,

vs.

EDWARD J. SHAUGHNESSY, District Director of Immigration and Naturalization at the Port of New York,

Respondent-Appellee.

An order to show cause having been obtained on March 1, 1950 from District Judge Edward A. Conger, requiring that the respondent herein show cause on March 7, 1950 why (a) the petition for a writ of habeas corpus, verified the 1st day of July, 1949 should not be amended, *nunc pro tunc*, (b) the said writ of habeas corpus should not be reargued, and (c) upon such reargument the said writ of habeas corpus should not be sustained; and the said order to show cause having come on for argument before District Judge Vincent L. Leibell, and the relator appearing by Carol King and Isidore Englander (Carol King, of counsel), and respondent having appeared in opposition thereto by IRVING H. SAYPOL, United States Attorney for the Southern District of New York (John J. Donovan, Jr., Assistant United States Attorney, of counsel) and affidavits and memorandum in opposition having been submitted on behalf of respondent; and

Another order to show cause having been obtained on March 27, 1950 from District Judge Vincent L. Leibell, requiring the respondent to show cause why

(a) the notice of appeal heretofore filed herein should not be withdrawn, and

(b) why the petitioner should not be continued enlarged on bail, pending the determination of Judge Vincent L. Leibell of the rehearing on relator's pettion for writ of habeas corpus:

And said order to show cause having come on for argument before District Judge Vincent L. Leibell, and the relator appearing by Carol King and Isidore Englander (Carol King, of counsel), and respondent having appeared in opposition thereto by Irving H. Saypol, United States Attorney (John J. Donovan, Jr., Assistant United States Attorney, of counsel), and affidavits in opposition being submitted on behalf of respondent, and Judge Leibell in a decision dated April 4, 1950, having denied on the merits the application for leave to amend the petition for a writ of habeas corpus, and having denied the application to withdraw the notice of appeal, it is

ORDERED, that the relator's applications of March 1, 1950 and March 27, 1950 herein, be and the same hereby are in all respects denied.

VINCENT L. LEIBELL
U. S. D. J.

Notice of Settlement Is Hereby Waived

CAROL KING
ISIDORE ENGLANDER
Attorneys for Relator-Appellant

Second Notice of Appeal

UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF NEW YORK

PETER HARISIADES,

Relator-Appellant,

against

EDWARD J. SHAUGHNESSY, District Director of Immigration and Naturalization at the Port of New York

Respondent-Appellee.

Sirs:

You and each of you will please take notice that Peter Harisiades, the relator-appellant in the above entitled matter, hereby appeals to the United States Court of Appeals for the Second Circuit from the order of Honorable Vincent L. Leibell, one of the Judges of the United States District Court for the Southern District of New York, made and entered herein on the 11th day of April 1950, denying on the merits relator-appellant's application of March 1, 1950 for leave to amend the petition for a writ of habeas corpus, and denying his application of March 27,1950 to withdraw the notice of appeal heretofore filed herein.

Dated: New York, N. Y., April 11th, 1950.

Yours, etc.,

CAROL KING
ISIDORE ENGLANDER
Attorneys for Relator-Appellant
Office & P. O. Address
220 Broadway
New York 7, N. Y.

To:

CLERK OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

IRVING H. SAYPOL, ESQ.
United States Attorney for the
Southern District of New York

Stipulation Consolidating Appeals

UNITED STATES COURT OF APPEALS,
FOR THE SECOND CIRCUIT.

UNITED STATES ex rel. PETER HARISIADES,
Relator-Appellant,

against

EDWARD J. SHAUGHNESSY, District Director of Immigration and Naturalization,
Respondent.

WHEREAS an appeal was heretofore filed herein on the 20th day of February 1950 from an order of Honorable Vincent L. Leibell made and entered herein on the said 20th day of February 1950, dismissing a writ of habeas corpus theretofore sued out herein, and

WHEREAS a further appeal was filed herein on the 11th day of April 1950 from a further order of Honorable Vincent L. Leibell made and entered herein on the said 11th day of April 1950, denying on the merits relator's application to amend his petition for writ of habeas corpus and denying his further application to withdraw the appeal of the 20th day of February 1950 hereinabove referred to,

IT IS HEREBY STIPULATED AND AGREED by and between the attorneys for the respective parties hereto that the above described appeals be and they are hereby consolidated.

Dated: April 26, 1950.

CAROL KING,
ISIDORE ENGLANDER,
Attorneys for Relator-Appellant.

IRVING H. SAYPOL,
United States Attorney for the Southern District of New York,
Attorney for Respondent.

SO ORDERED:

April 26, 1950

ALEXANDER M. BELL,
Clerk.

Stipulation as to Exhibits

UNITED STATES COURT OF APPEALS,

FOR THE SECOND CIRCUIT.

PETER HARISIADES,

Relator-Appellant,

against

EDWARD J. SHAUGHNESSY, District Director of Immigration and Naturalization at the Port of New York,

Respondent-Appellee.

IT IS HEREBY STIPULATED AND AGREED that all the exhibits referred to in the record herein, with the exception of Exhibits 1, 6 and 13 appearing therein, need not be printed, but copies thereof may be submitted to the Court upon the argument of the appeal.

IT IS FURTHER STIPULATED AND AGREED that the warrant of deportation, which was not included in the administrative record before the Court below, shall be deemed a part thereof, and the same need not be printed, but copies thereof may be submitted to the Court upon the argument of the appeal, since no copies had been served upon relator-appellant or received by his attorneys until after the record was in page proof.

Dated, New York, August 28, 1950.

CAROL KING
ISIDORE ENGLANDER
Attorneys for Relator-Appellant

IRVING H. SAYPOL
United States Attorney for the Southern District of New York
Attorney for Respondent-Appellee

Stipulation as to Record

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

[SAME TITLE]

IT IS HEREBY STIPULATED AND AGREED, that the foregoing is a correct transcript of the record in the said District Court in the above-entitled matter, as agreed on by the parties.

Dated, New York, August 28, 1950.

CAROL KING
ISIDORE ENGLANDER
Attorneys for Relator

IRVING H. SAYPOL
United States Attorney
Attorney for Respondent

Clerk's Certificate

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

[SAME TITLE]

I, William V. Connell, Clerk of the United States District Court, for the Southern District of New York, do hereby certify that the foregoing is a correct transcript of the record of the said District Court, in the above-entitled matter, as agreed on by the parties.

In testimony whereof, I have caused the seal of the said court to be hereunto affixed at the City of New York, in the Southern District of New York, this 30th day of August, 1950.

WILLIAM V. CONNELL,
Clerk.

(SEAL)

[fol. 987] UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT, OCTOBER TERM, 1950

No. 55

Argued January 4, 1951 Decided February 6, 1951

Docket No. 21754

UNITED STATES, ex rel. PETER HARISIADES, Appellant,

v.

EDWARD J. SHAUGHNESSY, District Director of Immigration and Naturalization at the Port of New York, Appellee.

Before: L. HAND, SWAN and AUGUSTUS N. HAND, Circuit Judges.

Appeal from the United States District Court for the Southern District of New York.

The relator, an alien held under a warrant for deportation, appeals from two orders in a habeas corpus proceeding. The first order dismissed the writ, the second denied a motion for leave to amend the petition for the writ so as to set forth the Government's non-compliance with the Administrative Procedure Act, 5 U. S. C. A. §1001 *et seq.* The District Court's opinions are reported in 90 F. Supp. 397 and 431 respectively. Orders modified.

[fol. 988] CAROL KING and ISIDORE ENGLANDER, Attorneys for Appellant; William B. Cherevas and Blanch Freedman, of counsel.

IRVING H. SAYPOL, United States Attorney, for appellee; Henry L. Glenn, Assistant United States Attorney, Louis Steinberg, District Counsel, and Solomon Isenstein and Max Blau, Attorneys, United States Department of Justice, Immigration and Naturalization Service, of counsel.

IRA GOLLOBIN, Attorney for American Committee for Protection of Foreign Born, *Amicus Curiae*.

SWAN, *Circuit Judge*:

This appeal brings before us the dismissal of a writ of habeas corpus in a deportation proceeding. The alien is a

Greek who came to the United States in 1916 when a boy of thirteen years. He has lived here ever since, has married a United States citizen and is the father of two children who are still minors. On May 20, 1949 he was taken into custody for deportation to Greece. He sued out a writ of habeas corpus which came on for hearing before Judge Leibell who dismissed the writ, with an opinion reported in 90 F. Supp. 397. The order of dismissal was entered February 20, 1950, and on the same day the relator filed notice of appeal. Also on February 20, 1950 the Supreme Court handed down its opinion in *Wong Yang Sung* v. *McGrath*, 339 U. S. 33, holding that the Administrative Procedure Act is applicable to deportation proceedings. In reliance on this decision the relator moved for reargument and for leave to amend, *nunc pro tunc*, his petition for the writ. The motion was opposed [fol. 989] on the ground that his appeal had divested the District Court of jurisdiction. The relator then moved for leave to withdraw his notice of appeal. Both motions were heard by Judge Leibell and were denied in an opinion reported in 90 F. Supp. 431. This order was also appealed and the two appeals have been consolidated. Pending his appeal the relator is enlarged on bail.

The first question concerns the regularity of the administrative hearings in view of the Administrative Procedure Act, which became effective September 11, 1946.[1] The hearings began October 15, 1946 before Inspector Zimmerman. Concededly he was not qualified if the Act was applicable, nor was the inspector who acted as examiner in the reopened hearings in 1948 appointed in accordance with section 11 of the Act. The appellee contends that the Act was inapplicable by its own terms since section 12 provides

> "* * * no procedural requirement shall be mandatory as to any agency proceeding initiated prior to the effective date of such requirement."

The problem breaks down into two questions: (1) Are the provisions of the Act which specify the qualification of the presiding inspector and the method of appointing examiners "procedural requirements," and (2) Was the proceeding "initiated" before the effective date of the Act. We think it clear that the legislative history requires an affirmative

[1] 60 Stat. 237, 244; 5 U. S. C. A. § 1001 *et seq.*

answer to both questions. The Senate and House Committee reports indicate that no provision of the Act was to apply to any proceeding commenced before the Act became [fol. 990] effective.[2] Essentially the issue is when was the proceeding which resulted in the deportation order "initiated."

A warrant for the arrest of the alien was issued by the Immigration Service on April 12, 1930, but it was not served upon him until May 2, 1946. It charged him with being here in violation of law on the ground of membership in an organization that advocates the overthrow of the Government by force or violence.[3] When the warrant was issued, the charge was valid because the alien was then a member of the Communist Party of the United States. He joined the party in 1925 and continued as a member until 1939, when he was dropped because it became the policy of the party not

[2] An interim print of the Senate Committee on the Judiciary in June 1945 explained the effect of the final clause of section 12 as follows: "It should be noted moreover, that * * * the proposal is not to have retroactive effect as to proceedings 'initiated * * * prior to the effective date' of any requirement." Sen. Doc. No. 248, 79th Cong., 2d Sess. 43 (1946). The final report of the House Committee on the Judiciary contained a "diagram synopsis" of the Act which stated that "The Act is not to apply to proceedings previously begun." H. R. Rep. 1980, 79th Cong., 2d Sess. 28 (1946). Explaining the bill on the floor of the House, Representative Walter said that "No requirement of the bill is mandatory as to any agency proceeding initiated prior to the effective date of such requirement." 92 Cong. Rec. 5655 (1946). Senator McCarran, who explained the bill on the Senate Floor, merely quoted the words of the final clause of section 12; but in doing so he omitted the word "procedural" entirely, thus indicating that he attached no significance to it. 92 Cong. Rec. 2159 (1946). The word was also omitted in summaries appearing in the final reports of the Senate and House Committees. See Sen. Rep. 752, 79th Cong. 1st Sess. 29 (1945); H. R. Rep. 1980, 79th Cong., 2d Sess. 47 (1946).

[3] Section 2 of the Act of October 16, 1918, 40 Stat. 1012, as amended by the Act of June 5, 1920, 41 Stat. 1008, made membership in such an organization cause for deportation.

to permit aliens to be members. Before the warrant was served the Supreme Court had held that only present membership was ground for deportation under the then existing statute.[4] But in 1940 the statute was amended to make past [fol. 991] membership a cause for deportation.[5] Accordingly at the October 1946 hearings and also at the reopened hearings in 1948 additional charges based on the alien's past membership in the Communist Party were lodged, as authorized by the Regulations.[6] These charges were sustained, while the original charge of present membership was not sustained. May it be said that the hearing on the amended charges was "initiated" before they were lodged? We agree with Judge Leibell's decision that it was. A helpful analogy may be found in the Federal Rules of Civil Procedure, even though they are not applicable to administrative hearings. Rule 15(c) provides that when the claim asserted in an amended pleading "arose out of the conduct, transaction or occurrence set forth or attempted to be set forth in the original pleading, the amendment relates back to the date of the original pleading." Applying the analogy to the present facts, the 1946 charge of former membership arose out of the same "conduct"—membership from 1925 to 1939—charged as the ground for deportation in the 1930 warrant of arrest; the amended charge therefore would relate back to the date of the original charge. Whether that date be deemed the date of the 1930 warrant or the date of its service, May 2, 1946, is immaterial since either antedates the Administrative Procedure Act.[7] The issue has now be-

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[4] *Kessler* v. *Strecker*, 307 U. S. 22 (1939).

[5] Act of June 28, 1940, 54 Stat. 670, 673

[6] 8 C. F. R. 150.6(1).

[7] No precise authority has been found. Under statutes authorizing deportation within a specified number of years after the alien's entry, the courts have treated the proceeding as commenced either by the issuance of the warrant of arrest or at the latest by the service of the warrant. *Raftery ex rel. Giacomazzi* v. *Tillinghast*, 1 Cir., 63 F. 2d 97; *United States* v. *Day*, 2 Cir., 20 F. 2d 733. See *Tillinghast* v. *Cresswell*, 1 Cir., 54 F. 2d 459, 460, cert. denied on technical grounds, 286 U. S. 560; *United States ex rel. Trinler* v. *Carusi*, 3 Cir., 166 F. 2d 457, 459 n. 5. See also Carusi,

come of little, if any, significance because of the enactment [fol. 992] on September 27, 1950 of P. L. 843, 81st Cong. 2d Sess., which provides:

> "Proceedings under law relating to the exclusion or expulsion of aliens shall hereafter be without regard to the provisions of sections 5, 7, and 8 of the Administrative Procedure Act (5 U. S. C. 1004, 1006, 1007)."

Whether this would make the original hearings lawful, had they not been "initiated" before September 11, 1946 we need not decide. At the least it means that any new hearing could be presided over by an officer having no different qualifications than did Inspector Zimmerman.

The appellant next contends that the administrative determination should be reversed because the evidence is insufficient to support it. Since the appellant admits that he is an alien and was a member of the Communist Party of the United States from 1925 to 1939, this attack is only upon the administrative findings that the Communist Party advocated the overthrow of the Government by force and distributed printed matter so advocating. He argues that the Government rested its case upon the documentary evidence and that the documents do not support the findings. The record does not bear him out. Three witnesses besides the alien gave oral testimony. The presiding inspector analyzed their testimony, discredited the alien and Schneiderman, and concluded that the oral testimony "overwhelmingly supports the conclusions that have been reached on the basis of direct analysis of the writings of Lenin and Stalin, and the official utterances of the Communist International and the Communist Party of the U. S. A."[8] The [fol. 993] opinion of the Assistant Commissioner of Immigration and Naturalization also notes that the oral testimony "corroborates" the documentary evidence.[9] Plainly on this record the administrative findings of the advocacy of overthrow of the Government by violence and of the dis-

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"The Federal Administrative Procedure Act and The Immigration and Naturalization Service," in Warren, Federal Administrative Procedure Act and The Administrative Agencies, 294-5 (1947).

[8] Transcript of Record, p. 801.

[9] Transcript of Record, p. 842.

tribution of documents so advocating are not so arbitrary as to require judicial reversal in a habeas corpus proceeding. Even if the court might itself have drawn different inference, though we should not, that would not suffice to establish that the hearing was unfair. Upon a collateral review in habeas corpus it is enough that there was some evidence from which the conclusion of the administrative tribunal could be deduced and that no error was committed so flagrant as to convince the court of the essential unfairness of the trial.[10] Moreover even if the evidence of the proscribed advocacy were deemed insufficient, the alien would now be deportable under section 22 of the Internal Security Act of 1950[11] by virtus merely of his past membership in the Communist Party.

Finally the appellant urges that to deport an alien, who has resided here so long, merely because he belonged to the Communist Party twelve years ago violates constitutional prohibitions. The appellee replies (1) that the power of Congress to deport aliens at any time and for any reason it deems in the public interest is absolute; and (2) that even if the power to deport is not unlimited, its exercise in the case at bar does not contravene any provision of the Constitution. It must be conceded that a most persuasive argument both on principle and on authority has been advanced [fol. 994] in support of the absolute power of Congress. A sovereign may exclude aliens altogether or may admit them on such terms as it chooses to impose. While an alien is allowed to remain here he is accorded certain constitutional protections but his license to remain is revocable at the sovereign's will; thereafter with respect to deportation he is entitled only to "procedural due process," that is, that he be given notice of the hearing and opportunity to show that he does not come within the classification of aliens whose deportation Congress has directed.[12] So far as we

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[10] *Tisi* v. *Tod*, 264 U. S. 131, 133; *Vajtauer* v. *Comm'r of Immigration*, 273 U. S. 103, 106; *Costanzo* v. *Tillinghast*, 287 U. S. 341.

[11] P. L. 831, 81st Cong., 2d Sess., C. 1024 (Sept. 23, 1950).

[12] *The Chinese Exclusion Case*, 130 U. S. 581; *Fong Yue Ting* v. *United States*, 149 U. S. 698, 707; *The Japanese Immigration Case*, 189 U. S. 86, 100; *Turner* v. *Williams*, 194 U. S. 279, 289; *Tiaco* v. *Forbes*, 228 U. S. 549, 556; *Vajtauer* v. *Comm'r of Immigration*, 273 U. S. 103, 106.

can discover none of the later decisions of the Supreme Court casts any doubt upon the continued potency of the earlier cases on this subject.

Nevertheless it is unnecessary to rest decision upon the principle that Congress has absolute and unqualified power with respect to the deportation of aliens. Even if the power be not absolutely unlimited and if we assume that a statute would be invalid which directed deportation for some cause having no rational relation to the public welfare, as, for example, that all blue-eyed aliens be deported, this is not such a case. The statute here involved is directed against those who have at any time confederated to overthrow the Government by force, and we hold that its present application is not unconstitutional. No society need continue to harbor aliens who have joined a group who propose to destroy the society itself. This appellant joined the group voluntarily and at a time when membership in such an organization was ground for expelling him from the country. He served as an organizer in various cities and finally became Secretary of the Greek Bureau of the Communist [fol. 995] Party. He never voluntarily withdrew but was dropped from membership for reasons of party policy. He argues that his joining was permissible political activity because he was not found to have personally advocated overthrow of the Government by force. A sufficient answer is that there is nothing in the Constitution which imposes upon deportation officials the difficult and uncertain task of distinguishing between those members of a subversive group who individually advocate the forbidden course and those who do not. The interest to be preserved of those who do not personally advocate the illegal means is at most the privilege of joining the group, and this is not of enough importance to outweigh the public interest in a workable rule which avoids the administrative difficulties of making a separation between those who do and those who do not favor the illegal objective of the group. Nor is it a valid objection that the ground of deportation is an act that occurred before the statute was adopted. See *Mahler* v. *Eby*, 264 U. S. 32, 39.

For the foregoing reasons we hold that the orders on appeal were correct. However, subsequent to their entry

the Internal Security Act of 1950 was passed.[13] Section 23 thereof amends section 20 of the Immigration Act of February 5, 1917, 8 U. S. C. A. §156, to provide that deportation "shall be directed by the Attorney General to the country specified by the alien, if it is willing to accept him into its territory," and that "No alien shall be deported under any provisions of this Act to any country in which the Attorney General shall find that such alien would be subjected to physical persecution." At the administrative hearing on October 15, 1946, the alien testified that he thought he would be persecuted if sent to Greece. In view of the foregoing amendments, before the appellant can be deported, the [fol. 996] Attorney General must give him an opportunity to choose the country, and must find that he will not be subjected to physical persecution in the country to which he is to be sent. We have recently held that we must dispose of orders entered in habeas corpus proceedings according to the law as it exists when we decide the appeal.[14] Accordingly the proper disposition of the present appeal is the following: The order denying the relator's motions is affirmed; the order dismissing the writ is reversed and the cause remanded with directions to hold it in abeyance pending action by the Attorney General in conformity with this opinion.

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[13] P. L. 831, 81st Cong., 2d Sess., C. 1024 (Sept. 23, 1950).

[14] *United States ex rel. Pizzuto* v. *Shaughnessy*, 2 Cir., 184 F. 2d 666; *United States ex rel. Wiczynski* v. *Shaughnessy*, 2 Cir., 185 F. 2d 347.

[fol. 997] UNITED STATES COURT OF APPEALS, SECOND CIRCUIT

At a Stated Term of the United States Court of Appeals, in and for the Second Circuit, held at the United States Courthouse in the City of New York, on the 6th day of February one thousand nine hundred and fifty-one.

Present: Hon. Learned Hand, Chief Judge; Hon. Thomas W. Swann, Hon. Augustus N. Hand, Circuit Judges.

UNITED STATES ex rel. PETER HARISIADES, Relator-Appellant,

v.

EDWARD J. SHAUGHNESSY, District Director of Immigration & Naturalization, Respondent-Appellee.

Appeal from the District Court of the United States for the Southern District of New York.

This cause came on to be heard on the transcript of record from the District Court of the United States for the Southern District of New York, and was argued by counsel.

On consideration whereof, it is now hereby ordered, adjudged, and decreed that the order denying the relator's motions be and it hereby is affirmed; the order dismissing the writ be and it hereby is reversed and cause remanded with directions to hold it in abeyance pending action by the Attorney General in accordance with the opinion of this court.

It is further ordered that a Mandate issue to the said District Court in accordance with this decree.

Alexander M. Bell, Clerk.

[fol. 998] [Endorsed:] United States Court of Appeals, Second Circuit. United States ex rel. Peter Harisiades v. Edward J. Shaughnessy, etc., 55, Judgment. United States Court of Appeals, Second Circuit. Filed February 6, 1951, Alexander M. Bell, Clerk.

[fol. 999] Clerk's Certificate to foregoing transcript omitted in printing.

[fol. 1000] SUPREME COURT OF THE UNITED STATES, OCTOBER TERM, 1951.

No. 43

[Title omitted]

ORDER ALLOWING CERTIORARI—Filed October 8, 1951.

The petition herein for a writ of certiorari to the United States Court of Appeals for the Second Circuit is granted. The case is transferred to the summary docket.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

Mr. Justice Clark took no part in the consideration or decision of this application.

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SUPREME COURT, U.S.

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1951

No. 206

LUIGI MASCITTI, APPELLANT,

vs.

J. HOWARD McGRATH, ATTORNEY GENERAL OF THE UNITED STATES

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

FILED JULY 26, 1951.

PROBABLE JURISDICTION NOTED OCTOBER 8, 1951.

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1951

No. 206

LUIGI MASCITTI, APPELLANT,

vs.

J. HOWARD McGRATH, ATTORNEY GENERAL OF THE UNITED STATES

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

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[fol. 1] [File endorsement omitted]

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

LUIGI MASCITTI, 1517 South 18th St., Philadelphia 46, Pa., Plaintiff,

vs.

J. HOWARD MCGRATH, Attorney General of the United States, Defendant

COMPLAINT DECLARATORY JUDGMENT—Filed November 22, 1950

The plaintiff, by his attorneys, respectfully alleges:

1. That this is an action for declaratory judgment under the Declaratory Judgment Act (28 U.S.C. 2201) and for review under the Administrative Procedure Act (5 U.S.C. 1001, et seq.).

2. That plaintiff is a native of Italy and was admitted to the United States for permanent residence on September 11, 1920.

3. That the defendant is the Attorney General of the United States and is charged with the statutory duty to determine, after appropriate hearings, whether aliens are to be deported from the United States.

4. That the plaintiff is not presently detained by defendant.

5. That on or about March 20, 1946, the defendant acting through his duly authorized agents issued and served a warrant of arrest in deportation proceedings against plaintiff asserting that he was in the United States in violation of the Act of October 16, 1918 as amended.

[fol. 2] 6. That after hearings the defendant, acting through his duly authorized agents, directed the deportation of plaintiff to Italy on the ground that he was a member of organizations, Young Workers Party and its successors, the Workers Party and Workers (Communist) Party, which organizations allegedly advocated and distributed literature advocating the overthrow by force and violence of the Government of the United States.

7. That in reaching the determination that plaintiff was deportable, the Board of Immigration Appeals, acting for the defendant, found as follows:

> "Respondent is a 46-years-old, a native and citizen of Italy whose only entry into the United States was on September 11, 1920, at which time he was admitted for permanent residence.
>
> "Respondent lives with his wife, a legally resident alien, and his United States citizen son. The record established that respondent has been regularly employed, supports his family, and that they are dependent upon him. He is well thought of in his community and by his employers and is a good workman. Aside from the factors which give rise to this proceeding, respondent's record is excellent. He has no criminal record. An independent investigation conducted by the Immigration and Naturalization Service indicates that all persons interviewed had confidence in respondent's good character and loyalty to the United States and believed that he would be a good citizen . . .
>
> "Respondent has testified that he has no connections with the Communist Party since 1929. There is nothing in the record to show that he has been so connected."

8. That in reaching the determination that plaintiff was deportable, the Board of Immigration Appeals, acting for the defendant, found that plaintiff was deportable by reason of past membership in the aforesaid organizations and that it was immaterial whether plaintiff personally believed in the aims and precepts of said organizations.

9. That the aforesaid basis for deportation, i. e. past membership in an organization advocating or distributing literature advocating the overthrow of the Government by force and violence was not made a deportable offense until June 28, 1940.

[fol. 3] 10. That plaintiff at no time personally advocated the overthrow of the United States or any government by force or violence.

11. That at the time of his membership in the aforesaid organizations between 1923 and 1929, plaintiff was not aware that the aforesaid organizations advocated overthrow of the government by force and violence.

12. That plaintiff's membership in the aforesaid organizations was for the purpose of participating in their lawful activities.

13. That at no time did plaintiff participate in any activities of the aforesaid organizations which were in furtherance of any objectives to overthrow the government of the United States or any other government by force and violence or otherwise.

14. That when plaintiff discovered that certain members in the aforesaid organizations were advocating change of government by revolution, he disassociated himself from such organizations.

15. That the plaintiff is and has been a person of good moral character and favorably disposed towards the good order and happiness of the United States for twenty years or more.

16. That the plaintiff filed a petition for naturalization in the United States District Court for the Eastern District of Pennsylvania, which petition has never been calendared for final hearing because of the defendant's challenge of plaintiff's immigration status.

17. That the aforesaid Act of October 16, 1918 as amended, insofar as construed and applied by defendant retroactively to require the deportation of plaintiff by reason of past membership in Communist organizations, and without regard to his personal beliefs, is unconstitutional, ex post facto, and a bill of attainder, violative of the First and Fifth Amendments and Article I, Section 9(3) of the Constitution.

[fol. 4] 18. That the defendant acting through the Board of Immigration Appeals denied plaintiff's application to cancel the deportation proceedings herein on the ground that it had no discretion to do so.

19. That in his refusal to cancel the deportation proceedings and exercise discretion herein, defendant acted arbitrarily, capriciously and contrary to law.

20. That the aforesaid order of deportation is null and void.

21. That the defendant acting through his duly authorized agents has threatened to deport plaintiff to Italy and such deportation would result in irreparable damage to plaintiff.

Wherefore, plaintiff prays for judgment:

(a) Declaring that the plaintiff is not subject to deportation by reason of past membership in Communist organizations.

(b) Declaring that the aforesaid Act of October 16, 1918 as amended, as construed and applied to plaintiff is unconstitutional and violative of the First and Fifth Amendments and Article I, Section 9(3) of the Constitution.

(c) Declaring that the aforesaid order of deportation is null and void and that the refusal of defendant to cancel proceedings herein was contrary to law.

(d) Restraining the defendant from enforcing the Act of October 16, 1918 as amended, on the ground that it is unconstitutional as construed and applied to plaintiff.

(e) Restraining the defendant from deporting the plaintiff on the ground that his removal from the United States would be in violation of law and in violation of the Constitution.

Jack Wasserman, 501 13th St. N.W., Washington 4, D. C., Attorney for Plaintiff.

Filindo Masino, Esq., Of Counsel.

[fol. 5] [File endorsement omitted]

UNITED STATES DISTRICT COURT

[Title omitted]

MOTION FOR PRELIMINARY INJUNCTION—Filed November 24, 1950

Comes now the plaintiff in the above entitled cause and upon the complaint herein moves this Court for a preliminary injunction

(a) restraining the defendant from enforcing the Act of October 16, 1918 as amended, on the ground that it is unconstitutional as alleged in the complaint;

(b) restraining the defendant from deporting the plaintiff on the ground that removal of the plaintiff from the United States is in violation of law and in

violation of the Constitution as alleged in the complaint, and would result in irreparable damage to him.

Jack Wasserman, 501 13th St. N.W., Washington 4, D. C., Attorney for Plaintiff.

Filindo Masino, Esq., Of Counsel.

Certificate of Service omitted in printing.

[fol. 6] [File endorsement omitted]

UNITED STATES DISTRICT COURT

[Title omitted]

REQUEST FOR THREE-JUDGE COURT—Filed November 24, 1950

Comes now the plaintiff in the above entitled cause and upon the complaint herein and the motion for a preliminary injunction suggests to the Honorable Court the necessity of convening a three-judge court in conformity with 28 U.S.C. 2282 and 2284.

Jack Wasserman, Attorney for Plaintiff.
Filindo Masino, Esq., Of Counsel.

[fol. 7] [File endorsement omitted]

THE UNITED STATES DISTRICT COURT

[Title omitted]

OPPOSITION TO MOTION FOR DESIGNATION OF THREE-JUDGE COURT—Filed January 5, 1951

Comes now the defendant by his attorney, the United States Attorney, and opposes plaintiff's motion for designation of a three-judge court pursuant to the provisions of Title 28, United States Code, Sections 2282 and 2284. For the grounds advanced in support of this opposition, the

Court's attention is respectfully directed to the attached Memorandum of Points and authorities.

George Morris Fay, United States Attorney. Ross O'Donoghue, Assistant United States Attorney. Jerome Powell, Assistant United States Attorney.

[fol. 8] [File endorsement omitted]

UNITED STATES DISTRICT COURT

[Title omitted]

DESIGNATION OF JUDGES TO SERVE ON THREE-JUDGE DISTRICT COURT—Filed February 21, 1951

The Honorable Edward M. Curran, United States District Judge for the District of Columbia, having notified me that the plaintiffs in the above entitled cases seek preliminary injunctions to restrain the enforcement and execution of an Act of Congress, namely, the Act of October 16, 1918, as amended (8 U. S. Code, Sec. 137.), on the ground that such Act as amended is repugnant to the Constitution of the United States, now, therefore, pursuant to the provisions of Sec. 2284 of Title 28 of the Code of Laws of the United States, I hereby designate the Honorable James M. Proctor, United States Circuit Judge for the District of Columbia Circuit, and the Honorable Alexander Holtzoff, United States District Judge for the District of Columbia, to serve with the Honorable David A. Pine, United States District Judge for the District of Columbia, as members of the Court to hear and determine the above entitled actions.

Henry W. Edgerton, Acting Chief Judge of the District of Columbia Circuit.

[fol. 9] [File endorsement omitted]

UNITED STATES DISTRICT COURT

[Title omitted]

AMENDMENT TO DESIGNATION OF JUDGES TO SERVE ON THREE-JUDGE DISTRICT COURT—Filed February 23, 1951

The designation of Judges to serve on the three-judge District Court in the above entitled cases dated February 20, 1951, is hereby amended as follows:

In the next to the last line of the designation strike out "David A. Pine" and insert in lieu thereof "Edward M. Curran."

Henry W. Edgerton, Acting Chief Judge of the District of Columbia Circuit.

[fol. 10] [File endorsement omitted]

THE UNITED STATES DISTRICT COURT

[Title omitted]

MOTION FOR SUMMARY JUDGMENT OR IN THE ALTERNATIVE TO DISMISS—Filed March 1, 1951

Come now the defendants by their attorney, the United States Attorney, and move to dismiss the complaints or for summary judgment. For the grounds advanced in support of the instant motion, the Court's attention is respectfully directed to the attached Memorandum of Points and Authorities. The Memorandum of Points and Authorities is submitted in opposition to plaintiffs' motions for preliminary injunction as well as in support of the instant motion.

George Morris Fay, United States Attorney. Ross O'Donoghue, Assistant United States Attorney. Jerome Powell, Assistant United States Attorney.

[fol. 11] Certificates of service (omitted in printing).

[fol. 12] [File endorsement omitted]

UNITED STATES DISTRICT COURT

[Title omitted]

APPEARANCE IN OPPOSITION TO MOTION FOR SUMMARY JUDGMENT OR IN THE ALTERNATIVE TO DISMISS—Filed March 10, 1951

Comes now the plaintiff Luigi Mascitti by his attorneys, and appears in opposition to the motion of the defendant to dismiss the complaint or for summary judgment, and upon the decision of the Board of Immigration Appeals in this matter, and the Points and Authorities submitted herein, requests that said motion be denied.

Jack Wasserman, Attorney for Plaintiff.

[fol. 13] [File endorsement omitted]

UNITED STATES DISTRICT COURT

[Title omitted]

ORDER—Filed March 20, 1951

This case came on to be heard before a three-judge statutory court on the motion of the plaintiff for a preliminary injunction, and a motion of the defendant for summary judgment or to dismiss the complaint; and the court having determined that the Act of October 16, 1918, as amended by the Act of June 28, 1940, is constitutional, it is

Ordered, that the motion for a preliminary injunction is hereby denied; that the three-judge court be dissolved; and that the case be remanded to United States District Judge Curran for the determination of the other questions.

James M. Proctor, United States Circuit Judge.
Alexander Holtzoff, United States District Judge.
Edward M. Curran, United States District Judge.

[fol. 14] [File endorsement omitted]

UNITED STATES DISTRICT COURT

Civil Action No. 5148-50

LUIGI MASCITTI, Plaintiff,

v.

J. HOWARD MCGRATH, Attorney General of the United States, Defendant

AMENDED ORDER—Filed June 18, 1951

This case came on to be heard before a three-judge statutory court on the motion of the plaintiff for a preliminary injunction, and a motion of the defendant for summary judgment, or to dismiss the complaint; and the court having determined that the Act of October 16, 1918, as amended by the Act of June 28, 1940, is constitutional; and the court having denied the motion for preliminary injunction, and having dissolved the three-judge court, and having remanded the case to United States District Judge Curran for the determination of the other questions, it is now Ordered,

That the original order be vacated and set aside, and the three-judge court be reconvened; and it is Further Ordered,

That the motion for a preliminary injunction is hereby denied; that the motion of the defendant to dismiss the complaint is granted; and judgment is entered for the defendant; and the three-judge court is now dissolved.

James M. Proctor, United States Circuit Judge.
Alexander Holtzoff, United States District Judge.
Edward M. Curran, United States District Judge.

[fol. 15] [File endorsement omitted]

UNITED STATES DISTRICT COURT

[Title omitted]

PETITION FOR APPEAL—Filed June 28, 1951

Luigi Mascitti, the plaintiff in the above entitled cause, considering himself aggrieved by the decree and order of

this Court entered on June 18, 1951 denying plaintiff's application for a preliminary injunction, dismissing the complaint herein, and dissolving the three-judge court, does hereby pray that an appeal be allowed from the said order and decree and from each and every part thereof to the Supreme Court of the United States. The particulars wherein the plaintiff considers the order erroneous are set forth in the assignment of errors and prayer for reversal accompanying this petition and to which reference is hereby made.

Said plaintiff further prays that a citation be issued in accordance with law; and that the material parts of the record, proceedings and papers upon which said order and decree were based, duly authenticated, be sent to the Supreme Court in accordance with the rules in such cases made and provided for.

Jack Wasserman, Attorney for Plaintiff-Appellant

[fol. 16] [Fide endorsement omitted]

UNITED STATES DISTRICT COURT

[Title omitted]

ORDER ALLOWING APPEAL—Filed June 28, 1951

Luigi Mascitti, plaintiff, having made and filed his petition praying for an appeal to the Supreme Court of the United States from the order and decree of this court entered on June 18, 1951 and from each and every part thereof, and having made and filed an assignment of errors and prayer for reversal and a statement of jurisdiction, and having in all respects conformed to the statute and rules of the court in such cases made and provided,

Now, therefore, It is hereby ordered and decreed that said appeal be, and the same hereby is allowed as prayed for, and

It is further ordered that a citation be issued in accordance with law.

Edward M. Curran, United States District Judge.

[fol. 17] Citation of Appeal—(omitted in printing).

[fol. 18] [File endorsement omitted]

UNITED STATES DISTRICT COURT

[Title omitted]

ASSIGNMENT OF ERRORS—Filed June 28, 1951

Now comes Luigi Mascitti, the plaintiff herein, and in connection with his appeal herein files the following assignment of errors upon which he will rely in the prosecution of said appeal to the Supreme Court of the United States from the order and decree of the District Court herein entered on June 18, 1951.

The District Court erred:

1. In holding that Section 2 of the Act of October 16, 1918 (40 Stat. 1012; 41 Stat. 1008; 8 U. S. C. 137) as amended by Section 23(b) of the Alien Registration Act of 1940 (54 Stat. 673) as construed and applied by the defendant to the plaintiff was and is constitutional and not in violation of the ex post facto provisions of Article I, Section 9, Clause 3 of the Constitution, the First Amendment, and the due process clause of the Fifth Amendment.

2. In denying plaintiff's application for a preliminary injunction on the ground that the aforesaid statute as construed and applied to the plaintiff was and is constitutional.

3. In failing to hold and conclude that the aforesaid statute as construed and applied by the defendant violated the ex post facto provisions of Article I, Section 9, Clause 3 of the Constitution, the First Amendment and the due process clause of the Fifth Amendment.

4. In failing to annul, set aside, and enjoin the defendant from enforcing the deportation order against the plaintiff on the ground that as construed by the defendant and ap-
[fol. 19] plied to the plaintiff, the said order violated the aforesaid provisions of the Constitution.

5. In dismissing plaintiff's complaint, dissolving the three-judge court herein, and in neglecting and refusing to grant plaintiff a permanent injunction as prayed for.

6. In the failure of the three-judge court to consider plaintiff's request contained in his complaint for a permanent injunction.

Wherefore, plaintiff Luigi Mascitti prays that the decree of the District Court be reversed, and for such other relief as the court may deem fit and proper.

Jack Wasserman, Attorney for Plaintiff-Appellant.

[fols. 20-21] Statement Requested by Paragraph 2, Rule 12—(omitted in printing).

[fol. 22] Order as to Exhibits—(omitted in printing).

[fols. 23-24] Praecipe Re Record on Appeal—(omitted in printing).

[fol. 25] [Stamp:] Clerk's Certificate to foregoing transcript omitted in printing.

[fol. 26] [File endorsement omitted]

SUPREME COURT OF THE UNITED STATES, OCTOBER, 1951 TERM

No. 206

[Title omitted]

STATEMENT OF POINTS—Filed August 2, 1951

Pursuant to Rule 13 (9), appellant files the following statement of points on which he intends to rely:

1. The deportation statute, Section 2 of the Act of October 16, 1918 (40 Stat. 1012, 41 Stat. 1008) as amended by Section 23(h) of the Alien Registration Act of 1940 (54 Stat. 673; 8 U. S. C. 137) as construed and applied by the appellee retroactively to require the deportation of appellant by reason of past membership in Communist organizations and without regard to his personal beliefs or his knowledge of the aims and purposes of such organizations is null and void and unconstitutional in that it violates the *ex post facto* and *bill of attainder* provisions of Article I, Section 9(3) and the free speech and due process clauses of the First and Fifth Amendments of the Constitution.

2. The deportation order entered against appellant is null and void in that it is based upon a deportation statute (Sec-

tion 2 of the Act of October 16, 1918, as amended by Section 23(b) of the Alien Registration Act of 1940; 40 Stat. 1012, 41 Stat. 1008, 54 Stat. 673, 8 U. S. C. 137) which as construed [fol. 27] and applied by appellee to appellant violates Article I, Section 9(3) and the First and Fifth Amendments of the Constitution.

3. Appellant is not subject to deportation by reason of his past membership in Communist organizations and the order of deportation entered against him is contrary to law and in violation of Article I, Section 9(3) and the First and Fifth Amendments of the Constitution.

4. The complaint herein states a cause of action and the District Court erred in dismissing appellant's complaint and in failing to grant injunctive relief.

Dated August 1, 1951.

Jack Wasserman, Attorney for Appellant, Warner Building, Washington, D. C. Filindo B. Masino, of Counsel.

Certificate of Service (omitted in printing)

[fol. 28]. Supreme Court of the United States, October, 1951 Term

No. 206

[Title omitted]

Designation of Parts of Record to Be Printed—Filed August 2, 1951

Pursuant to Rule 13(9), appellant designates that the entire record, including this designation and appellant's Statement of Points be printed but that the following be omitted:

1. Jurisdictional Statement pursuant to Rule 12.
2. Original Exhibits.

Jack Wasserman, Attorney for Appellant, Warner Building, Washington, D. C. Filindo B. Masino, of Counsel.

Certificate of Service (omitted in printing)

[fol. 29] [File endorsement omitted]

IN THE SUPREME COURT OF THE UNITED STATES, OCTOBER TERM, 1951

[Title omitted]

DESIGNATION OF ADDITIONAL PARTS OF RECORD TO BE PRINTED —Filed August 8, 1951

Pursuant to Rule 13(9), appellee designates that the following additional part of the record be printed:

1. The decision of the United States Department of Justice Board of Immigration Appeals dated October 13, 1950, in the deportation proceedings in the case of Luigi Mascitti or Luigi Lombardi Mascitti or Louis Mascitti (File A-5237203). This decision consists of six yellow typewritten pages which are part of defendant's Exhibit "A" in the case of Luigi Mascitti, Plaintiff, versus J. Howard McGrath, Attorney General of the United States, Defendant, being Civil Action No. 5148-50 in the United States District Court for the District of Columbia.

Philip B. Perlman, Solicitor General, Counsel for Appellee.

[fol. 30] Certificate of Service (omitted in printing)

[fol. 31] BEFORE BOARD OF IMMIGRATION APPEALS

Oct. 13, 1950

File: A-5237203.

In re Luigi Mascitti or Luigi Lombardi Mascitti or Louis Mascitti.

In Deportation Proceedings.

In Behalf of Respondent: Filindo B. Masino, Esquire, 1420 Walnut Street, Philadelphia, Pennsylvania, and Colonel B. G. Habberton on behalf of the Service (Alien also present) Heard August 17, 1950.

Charges:

Warrant: Act of 1918. After entry was a member of the following class set forth in Section 1 of said Act: An alien who is a member of an organization, association, society, or group that advises, advocates, or teaches the overthrow, by force or violence of the Government of the United States.

Lodged: Act of 1918. After entry was a member of the following class set forth in Section 1 of said Act: An alien who is a member of an organization, association, society and group that believes in, advises, advocates and teaches the overthrow by force and violence of the Government of the United States;

Act of 1918. After entry was a member of the following class set forth in Section 1 of said Act: An alien who is a member of an organization, association, society and group that writes, circulates, distributes, prints, publishes, and displays, that causes to be written, circulated, distributed, printed, published and displayed, and that has in its possession for the purpose of circulation, distribution, publication, issue and display, written and printed matter advising, advocating and teaching the overthrow by force and violence of the Government of the United States.

[fol. 32] Application: That warrant of arrest be canceled; or, suspension of deportation, or in the alternative, voluntary departure and preexamination; or, exercise of the 7th Proviso to Section 3 of the Act of February 5, 1917.

Detention Status: Released on $1,000 bond.

Respondent is 46 years old, a native and citizen of Italy, whose only entry into the United States was on September 11, 1920, at which time he was admitted for permanent residence.

Respondent lives with his wife, a legally resident alien, and his United States citizen son. The record established that respondent has been regularly employed, supports his family, and that they are dependent upon him. He is well thought of in his community and by his employers, and is a good workman. Aside from the factors that give rise to this proceeding, respondent's record is excellent. He has no criminal record. An independent investigation conducted by the Immigration and Naturalization Service indi-

cates that all persons interviewed had confidence in respondent's good character and loyalty to the United States and believed that he would be a good citizen.

The Examining Inspector and counsel entered into a stipulation in which it was agreed that respondent had been a member of the Young Workers Party, the Workers Party, and the Workers (Communist) Party between 1923 and 1929. It was further stipulated that those organizations possessed, circulated, and distributed certain documents which form a part of this record and are designated Exhibits 6 to 17, and that during the period of his membership these organizations advised, advocated, and taught the doctrines and principles contained in those exhibits. The titles of the exhibits are set forth in the Assistant Commissioner's opinion, page 3, footnote 2. They include the most commonly distributed writings of Marx, Engels, Lenin and Stalin.

Respondent has testified that he has had no connection with the Communist Party since 1929. There is nothing in the record to show that he has been so connected. He became a member of the International Workers Order in 1938 and continued in that organization until 1945. He was financial secretary of his lodge, the local unit, for about a year and a half immediately prior to the termination of his membership in 1945. He testified that he joined the I.W.O. because it offered inexpensive insurance benefits, beginning with very small payments. He testified further that the payments increased until he found them onerous. Further, he testified that as secretary he attended meetings much more regularly than he had in the past, and he discovered that some members were "talking about Russia" in the same way as the Communist Party had, and he found that some members were distributing an Italian-language newspaper which seemed to him to be of Communist tenor.

In a number of cases we have found that the Communist Party of the United States advocated the overthrow of the [fol. 33] Government of the United States by force and violence and it distributed printed matter which so advocated. We find that the evidence of record likewise supports that conclusion. *Matter of Harisiades*, A-5300756, May 13, 1949; *Matter of Fritz*, A-3430058, July 1, 1949; *Matter of Martinez*, A-3407165, August 12, 1949; *Matter of*

Obermeier, A-4690122; September 13, 1949; *Matter of Lipshitz*, A-4925135, November 16, 1949.[1] This line of cases is supported by the recent decision in *Harisiades* v. *Shaughnessy*, 90 F. Supp. 397 (S.D.N.Y. February 9, 1950).

Counsel for the alien concedes that the Communist Party advocated the overthrow of the Government of the United States by force and violence during the period of the respondent's membership and distributed printed matter which so advocated during that period. It is his contention, however, that the respondent joined the organization under a mistaken belief as to its true nature, and that he resigned when he discovered the aims and precepts of that party.

In the first place, the statute by its language does not apply only to "knowing membership." It is, therefore, unnecessary to prove knowledge. *Greco* v. *Haff*, 63 F. (2d) 863; *In re Saderquist*, 11 F. Supp. 526, affirmed *Sorquist* v. *Ward*, 83 F. (2d) 890. Secondly, it has been held that membership is sufficient evidence of knowledge of the proscribed doctrines. *Skeffington* v. *Katzeff*, 277 Fed. 129, 132; *Ex parte Vilarino*, 50 F. (2d) 582, 586. Lastly, the evidence in this case shows that the respondent attended meetings of the Communist Party, read its literature, listened to speeches, and paid his dues.

Respondent has requested the exercise of the discretion granted to the Attorney General under the 7th Proviso to Section 3 of the Immigration Act of 1917, as amended, in order that he may depart voluntarily from the United States and reenter, despite the grounds for deportation and exclusion. The representative of the Immigration and Natu-

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[1] Under the recently enacted Internal Security Act of 1950 (P. L. 831) it ceases to be necessary to establish that the Communist Party is one advocating the overthrow of the government by force and violence. In that Act, for the first time, Section 1(2)(C), membership in or affiliation with the Communist Party, specifically and by name, is made grounds for exclusion or deportation. In the present case, however, the warrant does not contain charges under the new Act, nor have charges under that Act been lodged against respondent. Therefore, it is still necessary for us to find that the Communist Party is a party advocating overthrow of the government, etc.

ralization Service argued that because this respondent entered the United States legally it is not possible to exercise the 7th Proviso as to him; that only an illegally resident alien or one presently outside the United States is eligible for 7th proviso relief. For a number of years we have been permitting an alien to adjust his immigration status, whether he is a resident, illegally or legally. He may have become deportable after his arrival in the United States [fol. 34] by conviction of the commission of a crime within five years after entry or by the conviction of the commission more than once of crimes involving moral turpitude, by having become a member of a proscribed organization, or in any one of a number of other ways having become deportable after his legal entry. When the alien has had an otherwise good record, long residence in the United States, and (usually) family ties, and when the record convinces us that there is unquestioned rehabilitation and that deportation would result in unnecessary hardship, we have exercised the 7th proviso in advance of his departure.

Until recently it was our policy not to grant 7th Proviso relief to persons who had been deported because of membership in proscribed organizations. However, in several cases during the past year, with the approval of the Attorney General, we have granted 7th Proviso relief to persons who at some time many years ago had been for a brief period members of the Communist Party. The first of these cases were *Matter of Hausen*, A-7596142 (approved by A. G. November 8, 1949); *Matter of Dickhoff*, A-5156681 (approved by A. G. December 2, 1949), and *Matter of Piscevic*, A-5366110 (April 14, 1950). In each of these cases the above described elements, or most of them, were present—that is, good record, long residence, etc. Now, however, since the passage of the Internal Security Act of 1950 (P. L. 831) it is not necessary to discuss the extensive record as to the favorable elements in the present case or the question as to whether or not respondent had knowledge of the aims of the I.W.O. during the time that he was a member of that organization. The Internal Security Act of 1950 takes from the Attorney General the authority to grant relief to any alien in the position in which respondent now finds himself. In part it provides as follows:

Section 4(a) Any alien who was at the time of entering the United States, or has been at any time thereafter, a member of any one of the classes of aliens enumerated in section 1(1) or section 1(3) of this Act or (except in the case of an alien who is legally in the United States temporarily as a nonimmigrant under section 3(1) or 3(7) of the Immigration Act of 1924, as amended) a member of any one of the classes of aliens enumerated in section 1(2) of this Act, shall, upon the warrant of the Attorney General, be taken into custody and deported in the manner provided in the Immigration Act of February 5, 1917. The provisions of this section shall be applicable to the classes of aliens mentioned in this Act, irrespective of the time of their entry into the United States.

Section 6(a) The provisions of the seventh proviso to section 3 of the Immigration Act of February 5, 1917, as amended (39 Stat. 875; 8 U. S. C. 136), relating to the admission of aliens to the United States, shall have no application to cases falling within the purview of section 1 of this Act.

[fol. 35] The exceptions relate only to officials and representatives of foreign governments, their staffs, families, and servants. The "classes of aliens enumerated" in Sections 1(1), 1(2), and 1(3) are very broad.[2] Undeniably

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[2]For example, the law provides, in part, for the exclusion or deportation of the following: Aliens who, at any time, shall be or shall have been members of any of the following classes:

Section 1(2)(C) Aliens who are members of or affiliated with (i) the Communist Party of the United States, (ii) any other totalitarian party of the United States, (iii) the Communist Political Association, (iv) the Communist or other totalitarian party of any State of the United States, of any foreign state, or of any political or geographical subdivision of any foreign state; (v) any section, subsidiary, branch, affiliate, or subdivision of any such association or party; or (vi) the direct predecessors or successors of any such association or party, regardless of what name such group

they include respondent. There can be no doubt that Congress intended to withdraw and has withdrawn from the Attorney General the power to grant 7th proviso relief in any case of this kind, no matter how selected or deserving.

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or organization may have used, may now bear, or may hereafter adopt;

(D) Aliens not within any of the other provisions of this paragraph (2) who advocate the economic, international, and governmental doctrines of world communism or the economic and governmental doctrines of any other form of totalitarianism, or who are members of or affiliated with any organization that advocates the economic, international, and governmental doctrines of world communism, or the economic and governmental doctrines of any other form of totalitarianism, either through its own utterances or through any written or printed publications issued or published by or with the permission or consent of or under the authority of such organization or paid for by the funds of such organization:

(C) Aliens who write or publish, or cause to be written or published, or who knowingly circulate, distribute, print, or display, or knowingly cause to be circulated, distributed, printed, published, or displayed, or who knowingly have in their possession for the purpose of circulation, publication, or display, any written or printed matter, advocating or teaching opposition to all organized government, or advocating (i) the overthrow by force or violence or other unconstitutional means of the Government of the United States or of all forms of law; or (ii) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government; or (iii) the unlawful damage, injury, or destruction of property; or (iv) sabotage; or (v) the economic, international, and governmental doctrines of world communism or the economic and governmental doctrines of any other form of totalitarianism.

In his argument before this Board, counsel for respondent addressed himself to the questions (1) of the requirements of "affiliation and/or membership" in proscribed organizations; (2) whether or not the I. W. O. was such an organization when respondent was a member (the Attorney General did not declare it to be a "subversive organization" until two years after respondent resigned), and (3) of the constitutionality of the June 28, 1940, amendment to the Act of 1918 (54 Stat. 673; 8 U. S. C. 137), if it is given a "retrospective" interpretation. It is not necessary to discuss [fol. 36] these theories and possibilities since the passage of the new Internal Security Act of 1950. Respondent has admitted past membership in the Communist Party, and under that law we have no authority to grant discretionary relief were we so inclined.

Order: It is ordered that respondent's request for 7th Proviso relief be denied.

It is further ordered that the appeal be and the same is hereby dismissed.

——— ———, Chairman.

MBMcC:ajw

———

[fol. 37] SUPREME COURT OF THE UNITED STATES, OCTOBER TERM, 1951

No. 206

ORDER—October 8, 1951

The statement of jurisdiction in this case having been submitted and considered by the Court, probable jurisdiction is noted. The case is transferred to the summary docket and assigned for argument immediately following No. 43, Harisiades vs. Shaughnessy, District Director, etc.

Mr. Justice Clark took no part in the consideration or decision of this question.

———

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TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1951

No. 264

DORA COLEMAN, APPELLANT,

vs.

J. HOWARD McGRATH, ATTORNEY GENERAL OF THE UNITED STATES AND A. R. MACKEY, ACTING COMMISSIONER OF IMMIGRATION AND NATURALIZATION

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

FILED AUGUST 21, 1951.

PROBABLE JURISDICTION NOTED OCTOBER 8, 1951.

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1951

No. 264

DORA COLEMAN, APPELLANT,

vs.

J. HOWARD McGRATH, ATTORNEY GENERAL OF THE UNITED STATES AND A. R. MACKEY, ACTING COMMISSIONER OF IMMIGRATION AND NATURALIZATION

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

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JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., OCT. 17, 1951

—7785

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[fol. 1] [File endorsement omitted]

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Civil Action No. 5141-50

DORA COLEMAN, 907 North 7th Street, Philadelphia, Pa., Plaintiff,

vs.

J. HOWARD MCGRATH, individually and as Attorney General of the United States, Department of Justice, Washington, D. C., and A. R. Mackey, individually and as Acting Commissioner of Immigration and Naturalization, Temporary Building X, 19th & East Capitol Streets, Washington, D. C., Defendants

COMPLAINT FOR REVIEW OF AGENCY ACTION AND FOR INJUNCTION—Filed November 21, 1950

The plaintiff, Dora Coleman, complaining of the defendants, J. Howard McGrath and A. R. Mackey, alleges:

1. The jurisdiction of the Court in this action arises under Section 11-301 of the District of Columbia Code and also and independently under Section 10 of the Administrative Procedure Act, 60 Stat. 243, 5 U. S. Code sec. 1009.

2. The plaintiff, Dora Coleman, is an alien. She was lawfully admitted to the United States for permanent residence at the port of Philadelphia, Pennsylvania, on March 6, 1914, and has since continually resided in the United States. She is married to a citizen and resident of the [fol. 2] United States, and is the mother of three children, born and residing in and citizens of the United States.

3. The defendant J. Howard McGrath is the Attorney General of the United States, and is sued herein both individually and in his official capacity. The defendant A. R. Mackey is Acting Commissioner of Immigration and Naturalization of the United States, and is also sued both individually and in his official capacity. The defendants are charged with the administration of the laws of the United

States relating to the deportation of certain classes of aliens. Their principal offices are in the District of Columbia.

4. On May 2, 1950, the defendants, acting through their official subordinate, the Acting Assistant Commissioner for Immigration and Naturalization, ordered the plaintiff deported from the United States on charges stated as follows:

> "The Act approved October 16, 1918, as amended, in that she is an alien who is found to have been, after entry into the United States, a member of an organization, association, society and group that believes in, advises, advocates and teaches the overthrow by force and violence of the Government of the United States;
>
> "The Act approved October 16, 1918. as amended, in that she is an alien who is found to have been, after entering the United States, a member of an organization, association, society and group that circulates, distributes, and displays, and that causes to be circulated, distributed, and displayed, and that has in its possession for the purpose of circulation, distribution, issue and display, written and printed matter advising, advocating and teaching the overthrow by force and violence of the Government of the United States."

5. On October 11, 1950, said order of deportation was affirmed by the defendant McGrath, acting through his subordinate agency the Board of Immigration Appeals.

[fol. 3] 6. Said order of deportation upon its affirmance became, and is, a final agency action for which judicial review is available under section 10 of the Administrative Procedure Act.

7. The deportation proceeding which culminated in the aforesaid deportation order was initiated in July, 1949.

8. The hearings in said deportation proceeding were not conducted in accordance with the provisions of the Administrative Procedure Act. Specifically, (a) the presiding officer had not been qualified or appointed as provided in section 11 of the said Act; (b) he had not been assigned to the case in rotation although assignment in rotation was fully practicable; (c) he performed duties and had responsibilities inconsistent with his duties and responsibilities as

a hearing examiner; (d) he was responsible to and subject to the supervision and direction of employees and agents of the defendants engaged in the performance of investigative and prosecuting functions for the Immigration and Naturalization Service; (e) he was himself engaged in performing investigative and prosecuting functions for said Service in factually related cases; (e) he was removable from office by the defendants within their discretion and without the need for good cause or opportunity for hearing; (f) his compensation was prescribed by the defendants; (g) he was not an impartial and independent examiner; (h) the charges upon which the findings and order of deportation were based were not presented to the plaintiff until after the close of the hearing.

9. The aforesaid deportation order and the findings on which it is based are not supported by substantial evidence, are contrary to the evidence, are unwarranted by the facts, and are arbitrary and capricious.

10. The deportation order and findings rest on plaintiff's membership in an organization at a time prior to the enactment of the statute making past membership in certain kinds of organizations cause for deportation.

[fol. 4] 11. The deportation order and the findings accompanying said order are on their face and as applied to the plaintiff, in excess of statutory authority and contrary to her constitutional rights. They deprive plaintiff of her rights under the First and Fifth Amendments to the Constitution of the United States and unconstitutionally inflict punishment ex post facto.

12. The statute under which plaintiff is ordered deported, on its face and as applied to the plaintiff, is an ex post facto law and violates the First and Fifth Amendments to the Constitution.

13. The deportation hearings and proceedings were conducted without observance of the procedure required by law and without due process of law.

14. The defendants are imminently threatening and intend to arrest the plaintiff and to deport her from the United States on the basis of the aforesaid void, illegal, and unconstitutional deportation order and proceedings. Unless restrained therefrom by this Court, they will thus cause

plaintiff grave and irreparable injury for which she has no adequate remedy at law.

Wherefore, plaintiff prays for a judgment (1) setting aside the order of deportation made against the plaintiff; (2) enjoining the defendants from deporting or attempting to deport the plaintiff and from molesting her under or in connection with their deportation order; (3) awarding the plaintiff the costs of this action; and (4) granting such other and further relief as may be appropriate. Plaintiff also prays for a preliminary injunction to enjoin the defendants from deporting or molesting her pending the trial and disposition of this action.

David Rein. Joseph Forer, Forer & Rein, 711 Fourteenth Street, N. W., Washington 5, D. C., Attorneys for Plaintiff.

[fol. 5] *Duly sworn to by Dora Coleman. Jurat omitted in printing.*

[fols. 6-10] [File endorsement omitted]

UNITED STATES DISTRICT COURT

[Title omitted]

PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION—Filed November 21, 1950

Now comes the plaintiff by her attorney and upon the verified complaint herein and the transcript of the proceedings before the Immigration and Naturalization Service moves that the Court issue a preliminary injunction enjoining, pending final disposition of this cause, the defendants from deporting or otherwise molesting the plaintiff. In support of the motion plaintiff respectfully states that the defendant's threatened action is unlawful and will violate her constitutional rights and will cause her irreparable injury and harm, all as set forth in the complaint and affidavit herein, unless they are enjoined as above stated.

David Rein, Attorney for Plaintiff.

Certificate of Service (omitted in printing).

[fol. 11] [File endorsement omitted]

UNITED STATES DISTRICT COURT

[Title omitted]

ORDER—Filed March 20, 1951

This case came on to be heard before a three-judge statutory court on the motion of the plaintiff for a preliminary injunction, and a motion of the defendant for summary judgment or to dismiss the complaint; and the court having determined that the Act of October 16, 1918, as amended by the Act of June 28, 1940, is constitutional, it is

Ordered, that the motion for a preliminary injunction is hereby denied; that the three-judge court be dissolved; and that the case be remanded to United States District Judge Curran for the determination of the other questions.

James M. Proctor, United States Circuit Judge.
Alexander Holtzoff, United States District Judge.
Edward M. Curran, United States District Judge.

[fol. 12] [File endorsement omitted]

UNITED STATES DISTRICT COURT

Civil Action No. 5141-50

DORA COLEMAN, Plaintiff,

v.

J. HOWARD MCGRATH, Attorney General of the United States, Defendant

AMENDED ORDER—Filed June 18, 1951

This case came on to be heard before a three-judge statutory court on the motion of the plaintiff for a preliminary injunction, and a motion of the defendant for summary judgment, or to dismiss the complaint; and the court having determined that the Act of October 16, 1918, as amended by

the Act of June 28, 1940, is constitutional; and the court having denied the motion for preliminary injunction, and having dissolved the three-judge court, and having remanded the case to United States District Judge Curran for the determination of the other questions, it is now Ordered,

That the original order be vacated and set aside, and the three-judge court be reconvened; and it is Further Ordered,

That the motion for a preliminary injunction is hereby denied; that the motion of the defendant to dismiss the complaint is granted; and judgment is entered for the defendant; and the three-judge court is now dissolved.

James M. Proctor, United States Circuit Judge.
Alexander Holtzoff, United States District Judge.
Edward M. Curran, United States District Judge.

[fol. 13] [Filing endorsement omitted]

UNITED STATES DISTRICT COURT

[Title omitted]

PETITION FOR APPEAL—Filed July 30, 1951

Dora Coleman, plaintiff in the above-entitled cause, feeling herself aggrieved by the order of the Court entered herein on the 18th day of June, 1951, denying plaintiff's application for a preliminary injunction, dismissing the complaint herein and entering judgment for the defendants, for the reasons set forth in her assignment of errors which is filed herewith, hereby prays an appeal from such order to the Supreme Court of the United States, and further prays that a transcript of the record on appeal be certified and sent to the Supreme Court of the United States.

David Rein, Attorney for Plaintiff.

[fols. 14-15] [File endorsement omitted]

UNITED STATES DISTRICT COURT

[Title omitted]

ORDER ALLOWING APPEAL—Filed July 30, 1951

It appearing to the Court that the plaintiff, Dora Coleman, has filed her petition for appeal to the Supreme Court of the United States, and filed therewith her assignment of errors, and also her statement as to the jurisdiction of the Supreme Court of the United States, as required by Rule 12 of the Supreme Court Rules, duly disclosing that the Supreme Court of the United States has jurisdiction upon appeal to review the order entered herein on June 18, 1951, denying plaintiff's motion for preliminary injunction, dismissing the complaint and entering judgment for the defendants, it is by the Court this 30th day of July, 1951,

Ordered that the appeal prayed for be and the same is hereby allowed and granted to the Supreme Court of the United States from the aforesaid order rendered in this cause on the 18th day of June, 1951, and that the record on appeal be made and certified and sent to the Supreme Court of the United States in accordance with the rules of that Court, said appeal being hereby made returnable forty (40) days from the date hereof.

James M. Proctor, United States Circuit Judge.

[fol. 16] [File endorsement omitted]

UNITED STATES DISTRICT COURT

[Title omitted]

ASSIGNMENT OF ERRORS AND PRAYER FOR REVERSAL—Filed July 30, 1951

Dora Coleman, plaintiff in the above-entitled cause, in connection with her petition for an appeal to the Supreme Court of the United States, hereby assigns error to the entry of the order dated June 18, 1951 denying plaintiff's

motion for preliminary injunction, dismissing the complaint and entering judgment for the defendants, and says that in the entry of said order the said District Court committed error to the prejudice of the plaintiff in the following particulars:

1. The Court erred in failing to issue a preliminary injunction, as prayed by plaintiff.
2. The Court erred in failing to determine that the statutory provision which plaintiff challenged is unconstitutional on its face and as applied to the plaintiff.
3. The Court erred in holding that the statutory provision which plaintiff challenged is constitutional on its face and as applied to the plaintiff.
4. The Court erred in dismissing the complaint.
5. The Court erred in entering judgment for the defendants.
6. The Court erred in failing to grant the plaintiff the relief prayed for her in her complaint.

[fols. 17-24] Wherefore, plaintiff prays that the aforesaid order of the District Court dated June 18, 1951 be reversed, for such other and further relief as the court may deem fit and proper.

David Rein, Attorney for Plaintiff.

[fol. 25] Before the Immigration and Naturalization Service

EXCERPTS FROM TRANSCRIPT OF THE PROCEEDINGS OF JULY 26 AND 27, 1949

p. 167, line 2 through line 18

Mr. Waldbaum: Mr. Zaepfel, before Mr. Taffet proceeds —I already spoke to him about it—I would like for the sake of the record to object to this proceeding on the basis that the Department has not complied with the Administrative Procedure Act. I expect you to overrule me, sir, but I want the record to show that we have requested that this entire proceeding be conducted under the provisions of the Administrative Procedure Act.

Inspector Zaepfel: I will overrule your objection, and

in doing so will say that the Administrative Procedure Act, in my opinion, does not apply here, and that the Courts have spoken on the point.

Let me add, too, that I am a duly qualified Immigrant Inspector, and my authorization to conduct this hearing is contained in Section 16 of the Immigration Act of 1917, 8 U. S. C. 152.

p. 173, line 8 through p. 174, line 8.

By Mr. Taffet:

Q. Mrs. Coleman, at this point I would like to call your attention to the fact that I am now lodging against you the following two charges:

That you are in the United States in violation of the Act of October 16, 1918, as amended, in that you have been found to have been, after entry, a member of the following class, set forth in Section 1 of said Act: An alien who [fol. 26] is a member of an organization, association, society and group that believes in, advises, advocates and teaches the overthrow by force and violence of the Government of the United States.

I also lodge against you the charge that you are in the United States in violation of the Act of October 16, 1918, as amended, in that you are found to have been, after entry, a member of the following class, set forth in Section 1 of said Act: An alien who is a member of an organization, association, society and group that writes, circulates, distributes, prints, publishes and displays, that causes to be written, circulated, distributed, printed, published and displayed, and that has in its possession for the purpose of circulation, distribution, publication, issue and display, written and printed matter advising, advocating and teaching the overthrow by force and violence of the Government of the United States.

[fol. 27] UNITED STATES DEPARTMENT OF JUSTICE

Immigration and Naturalization Service
Robinson Building, 42 South 15th Street
Philadelphia 2, Pa.

Philadelphia No. 2770-P-178266

Central Office File No. A-4609480

OPINION OF THE PRESIDING INSPECTOR

In re: (Mrs.) Dora Coleman, alias Childs nee Chilkovsky

Since the respondent's own testimony against interest is the only proof of her membership in the Party, a fair consideration would seem to require that this same proof should determine the proved period of membership.

The respondent has testified before officers of the Service at several times during the last few years regarding her membership in the Communist Party. Allowing for such things as memory lapse, the fact that as a housewife she may be dominated by her Communist husband, and the further fact that she may be apprehensive because of jeopardy in this proceeding, the respondent seems to me to have told a rather consistent story of the periods and circumstances of her membership in the Communist Party. Her first statement under oath was to an examiner as an applicant for naturalization and her signed statement as of that time is in evidence as Exhibit #8. It was a voluntary and material statement in which the burden was on her to qualify as an applicant for citizenship. She told the examiner that she joined the Communist Party in Philadelphia about 1919 and continued to be a member for about a year; that she then moved to New York and ceased to be a Party member, but that she was a member [fol. 28] of the International Ladies Garment Union; that she located in Chicago about 1924 and remained until about 1928 where she continued to be an active Union member, but did not belong to the Communist Party; that she returned to Philadelphia in 1928 and rejoined the Communist Party (p. 2 of the exhibit); that she continued to be a member until about 1930 when her first baby was born; that she was not active in the organization, paid her dues,

attended rallies, and believes that the Secretary issued a membership card for her, but kept it (p. 3 of the exhibit); that she rejoined the Party in 1936 and remained until 1937 or 1938 (p. 4 of the exhibit); that she met persons in the Union who explained about the Communist Party as a result of which she joined; that the only thing that impressed her was that the Party was fighting for justice and democracy and to protect the rights of the workers; that she last distributed Communist literature in 1936 or 1937, the Sunday Worker.

At her hearing in this proceeding, she continues along the same line of testimony and divides her membership into three periods since her entry into the United States. She said she joined at Philadelphia in 1919, remained in the Party about a year and again joined in 1928, but quit after a short period and again rejoined in 1930, remaining a member until 1936. She testified that she did not attend meetings of the Party and that she took no oath as a Party member. She repeated the same general reasons for joining and, among other things, identified the name of Earl Browder in connection with the Party (p. 13). She recalled having made a statement to the Naturalization Examiner [fol. 29] and when confronted with the fact that she then admitted having attended meetings and rallies, questioned the accuracy of the examiner's report as a result of which it was put in evidence (p. 14). Among other things, the respondent testified that during the year 1936 she deposited a weekly savings with the Soviet Bank in Moscow through the Chase National Bank and that the account grew to about $3,000.00 (p. 17); that she bought Russian Government Bonds in the amount of $3,000.00, but that she has no property or assets in that country at the present time. (p. 17).

What I consider to be the respondent's studied and mature testimony on the point of membership in the Communist Party begins at page 31 of the record. Here again she repeated that she joined the Party "about 1919 in Philadelphia not for very long because about 1920 I moved to New York". She repeats that she worked in New York about four years and that she was not a member there and that she returned to Philadelphia in 1928 and rejoined

the Party (p. 33); that she remained a member about two years (p. 34); that she again rejoined the Party in Philadelphia in 1936 and remained until about the year 1938. ("Either about 1937 or 1938, maybe one of the—one year or a year and one-half, something like that, right here." —p. 35). Here again the respondent stated that she does not remember ever having held a membership card (p. 38); that she was just a member with no set activities and that she did not sell or distribute literature or newspapers. She denied that it was her husband who asked her to join the Party in 1947 (p. 43) and repeated that she had no book and that she paid her dues when they came around [fol. 30] and collected; that the collector gave her a receipt of some kind and that she again left the Party because of sickness and because she was not wanted because of alienage ("I do not remember exactly. I think that is why I was dropped * * *" (p. 43); that she did not attend meetings but did attend rallies during the war ("I used to go to those meetings but I was not still a member" (p. 34). At this point in her testimony, she stated that she sold the Sunday Worker occasionally when girls would come around and ask her to help them on Sundays, and that she gave the money to the person who delivered the papers (p. 45); that she never submitted a formal resignation to the Party (p. 47); that she never went to the worker's school or solicited others for membership (p. 46); that she never heard anyone advocating overthrow of the Government by force or violence and that she does not believe in anything like that (p. 82). For the purpose of this opinion, I therefore find that she was a member of the Party from 1919 through the year 1920, from 1928 through the year 1930 and during the years 1936 through 1938.

[fol. 31] UNITED STATES DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

May 2, 1950 (Appeal 15)

File: A-4609480—Philadelphia (2770-P-178266).

In re: Dora Coleman alias Childs nee Chilkovsky.

In Deportation Proceedings.

In Behalf of Respondent: Saul C. Waldbaum, Esq., 505 City Centre Building, Philadelphia 7, Pennsylvania.

DECISION AND ORDER OF THE COMMISSIONER OF IMMIGRATION AND NATURALIZATION

Charges:

Warrant: Act of 1918, as amended—After entry into the United States, found to have been a member of an organization which advocated or taught the overthrow by force and violence of the Government of the United States.

Lodged: Act of 1918, as amended—After entry into the United States, found to have been a member of an organization which advocated and taught the overthrow by force and violence of the Government of the United States.

Act of 1918, as amended—After entry into the United States, found to have been a member of an organization which circulates, etc., printed matter advocating the overthrow by force and violence of the Government of the United States.

Application: None.

Detention Status: Released on $4,000 bond.

Upon consideration of the entire record, the findings of fact and conclusions of law proposed by the Presiding Inspector and served on the alien's Counsel by mail on December 9, 1949, are hereby adopted.

Discussion: This record relates to a 50-year-old married female, a native and last a citizen of Russia. The record establishes that she was admitted to the United States for permanent residence on March 6, 1914 at the port of Philadelphia, Pennsylvania ex SS "Brandenburg".

[fol. 32] The respondent is charged with being deportable under the Act of October 16, 1918, as amended (8 U. S. C. 137), by reason of past membership in the Communist Party

of the United States, an organization which is alleged to be proscribed. Her past membership in the organization named is admitted. She has also admitted present membership in the International Workers Order which is an organization believed to be Communist-dominated and has been designated as a subversive organization by the Attorney General pursuant to Executive Order 9835. However, neither the character of the International Workers Order nor the respondent's membership therein is an issue in this proceeding. The only issue in this case is, therefore, whether it has been established that the Communist Party of the United States, during the period of the respondent's membership therein, was an organization coming within the purview of the deportation statute.

The Presiding Inspector has found that the respondent was a member of the Communist Party of the United States during the years 1920, 1928, 1929, 1936, 1937 and 1938 and that during this period that Party was an organization which believed in, advised, advocated, and taught the forcible overthrow of the Government of the United States and which circulated, caused to be circulated, and had in its possession for the purpose of circulation written and printed matter advocating the forcible overthrow of the Government of the United States in violation of the Act of October 16, 1918, as amended. In reaching a determination as to the character of the Communist Party within the critical period, the Presiding Inspector relied on certain documents and oral testimony introduced into evidence by the Government. No corresponding or countervailing evidence was introduced by the respondent.

Counsel for the respondent has filed brief exceptions to "all of the proposed findings of fact, conclusions of law and order of the Presiding Inspector". However, Counsel's exceptions are so succinct and generalized as to obviate the necessity for an answer thereto. The pertinent objections raised by Counsel during the course of the hearing were properly overruled by the Presiding Inspector.

Although Counsel originally requested oral argument before this Service and he was afforded several opportunities for hearing, he subsequently advised that he would be unable to appear and stated that he desired decision to be

made on the record. No application for discretionary relief has been made. Therefore, as previously stated, the issue here is concerning the nature of the Communist Party at the time of the respondent's membership therein.

Among the Government Exhibits which have been introduced as official documents of the Communist Party are some which have been before the courts and recognized to contain the official doctrines of that organization. *Ex* [fol. 33] *parte Vilarino*, 50 F. (2d) 582 (C. C. A. 9, 1931) (Communist Manifesto); *Kjar* v. *Doak*, 61 F. (2d) 566 (C. C. A. 7, 1932) (Program of the Communist International); *In re Sadergquist*, 11 F. Supp. 525, aff'd 83 F. (2d) 890 (C. C. A. 1) (Program of the Communist International); *Branch* v. *Cahill*, 88 F. (2d) 545 (C. C. A. 9, 1937) (Communist Manifesto). It may also be pointed out that the documentary evidence in the instant case is identical, for the most part, with that presented in a number of recent deportation proceedings for the purpose of establishing the aims and principles of the Communist Party. In deciding these cases, the Board of Immigration Appeals has recognized the propriety of relying on such documentary evidence as a basis for determining the official character of the Communist Party. *Matter of Harisiades*, A-5300756 (May 13, 1949); *Matter of Warhol*, A-2526223 (May 20, 1949); *Matter of Herman*, A-5283587 (June 17, 1949); *Matter of Lichota*, A-5439032 (June 22, 1949); *Matter of Hilty*, A-1083319 (July 6, 1949); *Matter of Refugio-Martinez*, A-3407165 (August 12, 1949):

We are fully persuaded, upon the basis of witness Malkin's testimony and our examination of the documents of record, that it has been established that these documents reflected and portrayed the official doctrines of the Communist Party of the United States during the time in question.

Upon examination of the appropriate documents and oral testimony and of the analysis of the evidence by the Presiding Inspector, we are satisfied that the record herein fully establishes that the Communist Party of the United States, during the period of the respondent's membership, was an organization which believed in, advised, advocated, and

taught the overthrow by force and violence of the Government of the United States, and which circulated, distributed and displayed, and which caused to be circulated, distributed and displayed, and which had in its possession for the purpose of circulation, distribution, issue and display, written and printed matter advising, advocating and teaching the overthrow by force and violence of the Government of the United States. This conclusion is supported by rulings of the Board of Immigration Appeals, upon similar evidence and on the same issues, in the cases cited above.

The proscribed nature of the Communist Party having been established and the respondent admittedly having been a member of said organization, she is clearly deportable under the Act of October 16, 1918, as amended, as stated in the charge contained in the warrant of arrest and the charges lodged during the course of the hearing. However, inasmuch as it appears that the warrant charge and the first charge lodged at the hearing are redundant, it is unnecessary to sustain both charges, therefore, the warrant charge is omitted.

[fol. 34] The Presiding Inspector has not found that the Communist Party, during the period of the respondent's membership therein, was an organization which wrote, printed and published, and caused to be written, printed and published, and had in its possession for the purpose of publication, written and printed matter advising, advocating and teaching the overthrow by force and violence of the Government of the United States. Accordingly, the charge lodged is sustained only insofar as it does not relate to such written, printed or published matter.

Counsel has objected to the present proceedings on the ground that the Government did not comply with the provisions of the Administrative Procedure Act of 1946. Counsel's argument is highlighted by the recent decision of the United States Supreme Court in *Wong Yang Sung* v. *McGrath* (Decided February 20, 1950), in which the Court held that "Deportation proceedings must conform to the requirements of the Administrative Procedure Act if resulting orders are to have validity".

Section 12 of the Administrative Procedure Act, ap-

proved June 11, 1946 (60 Stat. 237, 5 U. S. C. 1001 et seq.) provides that:

> This Act shall take effect three months after its approval except that Sections 7 and 8 shall take effect six months after such approval, the requirements of the selection of examiners pursuant to Section 11 shall not become effective until one year after such approval, and *no procedural requirement shall be mandatory as to any agency proceeding initiated prior to the effective date of such requirement.* (Italics supplied.)

It will be noted that in the instant case, the warrant of arrest was issued on April 22, 1946 and served upon the respondent on May 10, 1946, both dates being antecedent to the enactment of the Administrative Procedure Act.[1] The first hearing in the present case was held on June 25, 1946. Thereupon, further proceedings were deferred subject to the call of the Government. The hearing was resumed and completed on July 26, 1949 and at that time additional charges were lodged against the respondent.

[fol. 35] This Service takes the view that a deportation proceeding is initiated by service of the warrant of arrest upon the alien and that when the warrant of arrest in a deportation proceeding is served prior to September 11, 1946, whether or not additional charges are subsequently lodged, the proceedings and all orders subsequent thereto are valid and not affected by the requirements of the Administrative Procedure Act. This view is based on that part of Section 12 of the Administrative Procedure Act (above cited) which provides that "no procedural require-

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[1] In the Sung case, the alien was taken into custody by the Immigration and Naturalization Service on or about October 14, 1947 under a warrant of arrest issued October 13, 1947. There could be no question that this proceeding was initiated subsequent to the enactment of the Administrative Procedure Act.

ment shall be mandatory as to any agency proceeding initiated prior to the effective date of such requirement".[1]

Indeed, this very question was before the District Court of the Southern District of New York in the case of *Harisiades* v. *Shaughnessy*. In that case, the facts were identical to those in the instant case, in that the warrant of arrest was issued and served prior to the enactment of the Administrative Procedure Act, and additional charges were lodged against the alien at hearings held subsequent to September 11, 1946.[2] Judge Leibell on April 4, 1950 overruled contention of counsel for Harisiades that the proceedings in that case should have been conducted pursuant to the Administrative Procedure Act, indicating that if the *issuance* of a warrant of arrest is not sufficient to "initiate" the proceeding, in any event, the *service* of the warrant of arrest is sufficient to constitute an initiation of the proceeding.

The decision referred to in the *Harisiades* case has an additional bearing on the argument advanced by counsel in the present case. In the *Harisiades* case, as in this one, the warrant of arrest contained a single charge under the 1918 Act, based on membership in the Communist Party, and additional charges were subsequently lodged under the 1918 Act, also predicated on the alien's membership in the Communist Party. Judge Leibell found that the lodged [fol. 36] charges were in substance the same as the charge

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[1] We are using the date of September 11, 1946, because it is the effective date generally of the Administrative Procedure Act subject to the exceptions enumerated. If need be, it could well be argued that as to Sections 7, 8, and 11 of the Administrative Procedure Act, which relate to procedural requirements, the effective date occurs subsequent to September 11, 1946.

[2] In the cited case, the warrant of arrest was issued April 12, 1930 and was served upon Harisiades on May 2, 1946. The first hearing was held on October 15, 1946, at which time three additional charges under the 1918 Act were lodged. A reopened hearing followed in 1948 and two more charges were lodged against the alien at that time.

stated in the original warrant of arrest (membership in an organization advocating the forcible overthrow of our Government), or that as to one charge it was so closely linked to the warrant charge as to be of the same substance (membership in an organization which distributed literature advocating the forcible overthrow of our Government). What was said in the *Harisiades* case on that point applies with equal force to the instant case.

Accordingly, in answer to counsel's contention that the instant proceeding did not conform to the procedural requirements of the Administrative Procedure Act, this Service concedes this to be so and sums up its position as follows: There has been only one proceeding brought against the respondent. It was initiated no later than the date on which the warrant of arrest was served, May 10, 1946. This date was prior to the enactment of the Administrative Procedure Act of June 11, 1946 and, therefore, the exemption in Section 12 of said Act is applicable. In addition, the charges subsequently lodged against the respondent were of the same substance as the charge in the warrant of arrest and did not constitute new charges. Counsel's argument is overruled.

Order: It is ordered that the alien be deported to the Union of Soviet Socialist Republics, at Government expense, on the following charges:

> The Act approved October 16, 1918, as amended, in that she is an alien who is found to have been, after entry into the United States, a member of an organization, association, society and group that believes in, advises, advocates and teaches the overthrow by force and violence of the Government of the United States;
>
> The Act approved October 16, 1918, as amended, in that she is an alien who is found to have been, after entering the United States, a member of an organization, association, society and group that circulates, distributes, and displays, and that causes to be circulated, distributed, and displayed, and that has in its possession for the purpose of circulation, distribution, issue and display, written and printed matter advising,

advocating and teaching the overthrow by force and violence of the Government of the United States.

Eleanor Enright, Acting Assistant Commissioner
Adjudications Division.

ROBE:SBR:dm

[fol. 37] BEFORE BOARD OF IMMIGRATION APPEALS

October 11, 1950

File: A-4609480.
In re: Dora Coleman alias Childs nee Chilkovsky.
In Deportation Proceedings.
In behalf of Respondent: A. Harry Levitan, Esquire, 121 North Broad Street, Philadelphia 7, Pa. Heard June 8, 1950.

OPINION AND DECISION OF THE BOARD OF IMMIGRATION APPEALS

Charges:

Warrant: Act of 1918, as amended—After entry into the United States, found to have been a member of an organization which advocated or taught the overthrow by force and violence of the Government of the United States.

Lodged: Act of 1918, as amended—After entry into the United States, found to have been a member of an organization which advocated and taught the overthrow by force and violence of the Government of the United States.

Act of 1918, as amended—After entry into the United States, found to have been a member of an organization which circulates, etc., printed matter advocating the overthrow by force and violence of the Government of the United States.

Application: That the order of deportation be vacated or the case be returned for further proceedings in accordance with the Administrative Procedure Act of 1946.

Detention Status: Released on $4,000 bond.

This is an appeal from an order entered by the Acting Assistant Commissioner on May 2, 1950, directing the re-

spondent's deportation to the Union of Soviet Socialist Republics, at government expense, on the lodged charges stated above. Counsel excepts to the order on the ground that the charges are not sustained as a matter of law and/or of fact.

[fol. 38] The respondent, female, 50 years of age, a native of the Ukraine and last a citizen of Russia, was admitted to the United Staes for permanent residence at the port of Philadelphia, Pennsylvania, on March 6, 1914. She was 13 years of age at the time of entry and has resided in the United States continuously. The respondent is married to an American citizen and has three native-born children. She is engaged in the antique business jointly with her husband at Philadelphia, Pennsylvania.

The respondent admits that she joined the Communist Party of the United States in 1919 and remained a member for approximately one year; that she rejoined said Party in 1928 and was a member until "about 1930"; and that she again joined in 1936 and remained a member until "either about 1937 or 1938" for "one year or a year and a half" (pp. 31-35). The only issue, therefore, is whether a preponderance of the evidence establishes that the Communist Party of the United States during the period of the respondent's membership therein was an organization coming within the purview of the Act approved October 16, 1918, as amended (8 USC 137).

A number of points have been raised by counsel on appeal but in substance his main contentions are (1) that the government has failed to establish as a matter of law and of fact that the Communist Party of the United States during the time of the respondent's membership therein taught or advocated the overthrow of the Government of the United States by force or violence and distributed literature advocating that doctrine; (2) that the government did not comply with the Administrative Procedure Act of 1946 (5 USC 1001 et. seq.) in the conduct of the hearing; and (3) that the government relies primarily on a witness whose credibility has been impeached. The first contention raises an issue of fact and not of law. The second and third are questions of law.

We have carefully considered the documentary evidence

and the oral testimony of record. We have reviewed the analysis of the evidence by the presiding inspector and the Acting Assistant Commissioner. We find on the basis of the evidence adduced and the cases cited that during the period of the respondent's membership in the Communist Party of the United States of America, it believed in, advocated and taught the overthrow of the Government of the United States by force and violence and distributed written and printed matter which so advocated. The fundamental teachings and policies of both the Communist Party of the United States of America and the Communist International are so clearly and repeatedly expressed in the documentary evidence of record that the testimony of an "expert" is merely cumulative in aiding this Board to interpret them. The source of publication and sale, as printed on the majority of the exhibits of record, proves beyond question that the Communist Party of the United States of America circulated and distributed them. Under the circumstances, [fol. 39] we find no merit to counsel's exceptions numbered (1) and (3) above. Cf. *Harisiades* v. *Shaughnessy*, 90 F. Supp. 397, U. S. D. C., S. D. N. Y. (Feb. 9, 1950) and cases cited therein.

Nor do we find merit to the exception relative to a compliance with the Administrative Procedure Act of 1946 (supra). In effect counsel argues that the charges lodged on July 26, 1949, constitute the initiation of a new deportation proceeding. The warrant of arrest in the instant case was issued April 12, 1946, and served upon the respondent May 10, 1946. A hearing under this warrant was initiated on June 25, 1946, and thereafter resumed on July 26, 1949, at which time additional charges were lodged against the respondent. The Acting Assistant Commissioner in overruling counsel's contention on this point relies upon the authority contained in *Harisiades* v. *Shaughnessy*, 90 F. Supp. 431, U. S. D. C., D. N. Y. (April 4, 1950).

Both the warrant charges and those lodged during the hearing in the *Harisiades* case (supra) parallel those in the instant case. The warrant of arrest was issued and served prior to the enactment of the Administrative Procedure Act. The additional charges were lodged at hearings held subsequent to September 11, 1946, the effective date of the

Administrative Procedure Act, pertinent to the issue here involved. In the *Harisiades* case (supra) Judge Leibell was confronted with the identical question under discussion. He found that the lodged charges were in substance the same as the charges stated in the original warrant of arrest and that if the issuance of the warrant of arrest is not sufficient to "initiate" a proceeding, then certainly the "*service*" of the warrant of arrest filled any omission.

Counsel, on the other hand, has cited as authority for his argument the case of *Yanish et al. v. Barber*, 181 F. (2) 492 (CCA 9, April 24, 1950), wherein the court in a Per Curiam decision said, "These regulations,[1] as we understand them, are applicable to proceedings inaugurated prior, as well as subsequent, to the effective date of the Administrative Procedure Act, no exceptions appearing therein."

We are unable to determine the basis for the above-cited quotation since the opinion by the Court of Appeals, 9th Circuit, is devoid of any facts or reasoning. We have carefully examined the regulations in question (Part 151, Title 8 CFR). It is clearly stated therein that this part was added effective as of March 10, 1950, and cites as authority, inter alia, various sections of the Administrative Procedure Act (5 USC 1004, 1006, 1007, 1010 and 1011). The pertinent provisions of the Administrative Procedure Act did not become effective until September 11, 1946, as Section 12 of [fol. 40] this Act, approved June 11, 1946, specifically states in part, "*No procedural requirements shall be mandatory as to any agency proceeding initiated prior to the effective date of such requirements.*" (Italics supplied.)

It is a well settled principle of law that all statutes and administrative regulations should be construed prospectively unless otherwise provided therein. We interpret the court's decision in the *Yanish* case to be directed to a lack of procedural preciseness under the regulations as drafted and not to the substance of whether the Administrative Procedure Act is applicable as a matter of law.

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[1] The court was referring to the amendment of Part 150 and the addition of Part 151 of Title 8 CFR, effective March 10, 1950, and published in 15 F. R. 1298-1301 on March 10, 1950.

In this connection we note that the regulations in question have been amended by the addition of Section 151.10, Title 8 CFR, which provides an exception for those cases in which warrants of arrest were served prior to September 11, 1946, but whose hearings were held during the period beginning September 11, 1946, and ending March 9, 1950, or were reopened during that period for the purpose of lodging deportation charges additional to those contained in the warrant of arrest.[2] Under the circumstances, we consider the ruling in the *Harisiades* cases to be controlling and the point raised by counsel to be without merit.

The logic of not returning the record for further proceedings or, for that matter, dismissing the proceedings, finds additional support in the amendment of the Act of October 16, 1918, by Section 22 of the Internal Security Act of 1950 (Public Law 831, 81st Congress, September 23, 1950). Under the amended Act (Section 4 of the 1918 Act) proof that the Communist Party advocated the overthrow of the government by force and violence or distributed written or printed literature that so advocated is not required. Mere membership at any time in a proscribed organization is sufficient when coupled with knowledge that at the time of joining the organization in question was communistic. A fortiori the respondent would find herself in no better position than she is at the present time. The appeal will be dismissed and the Acting Assistant Commissioner's opinion affirmed.

Order: It is directed that the appeal be and the same is hereby dismissed. The opinion of the Acting Assistant Commissioner is hereby affirmed.

——, Chairman.

JBB:MJW.

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[2] This section was added to Part 151, Title 8 CFR, effective as of March 10, 1950, but published in 15 F. R. 5042 on August 5, 1950.

[fol. 41] [File endorsement omitted]

SUPREME COURT OF THE UNITED STATES, OCTOBER TERM, 1951

No. 264

[Title omitted]

STIPULATION WITH REGARD TO PRINTING—Filed September 20, 1951

It is hereby stipulated by and between counsel for the appellant and the Solicitor General, counsel for the Appellees as follows:

1. Only the following portions of the record which has been filed in the Supreme Court of the United States in connection with the appeal in the above entitled case need be printed:

a. The complaint filed in the District Court.

b. Plaintiff's motion for preliminary injunction filed in the District Court.

c. Order of the District Court of March 20, 1951, denying preliminary injunction and dissolving three-judge court.

d. Order of the District Court of June 18, 1951 reconvening three-judge court denying preliminary injunction, dismissing complaint and entering judgment for defendants.

e. Petition for appeal.

f. Order allowing appeal.

g. Assignment of errors and prayer for reversal.

h. The following pages in the typewritten transcript of the proceedings of July 26 and 27, 1949 before the Immigration and Naturalization Service: p. 167, line 2 through line 18; p. 173, line 8 through p. 174, line 8.

[fol. 42] i. The following portions of the Opinion and Report of the Presiding Inspector: The heading of the opinion and report; from p. 4, beginning with the sentence which starts "Since the respondent's own testimony against . . ." to p. 6 ending with the sentence which ends "'. . . during the year 1936 through 1938."

j. Decision and order of the Commissioner of Immigration and Naturalization dated May 2, 1950.

k. The opinion and decision of the Board of Immigration Appeals dated October 11, 1950.

2. Either side may make reference to any portion of the record filed in the Supreme Court.

David Rein, Attorney for the Appellant.

Philip B. Perlman, Solicitor General.

[fol. 43] Supreme Court of the United States, October Term, 1951

No. 264

[Title omitted]

Order—October 8, 1951

The statement of jurisdiction in this case having been submitted and considered by the Court, probable jurisdiction is noted. The case is transferred to the summary docket and assigned for argument immediately following No. 206, Mascitti vs. McGrath.

Mr. Justice Clark took no part in the consideration or decision of this question.